

RESOLUTION NO. 139-10

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND AFFIRMING THE DESIGN REVIEW BOARD APPROVAL OF DESIGN REVIEW PERMIT (PLN10-172) FOR THE INSTALLATION OF A NEW WINDOW AT 356 WEST MACDONALD AVE IN ATCHISON VILLAGE, THEREBY, DENYING THE APPEAL

WHEREAS, on September 29, 2010, Phyllis Mandel (applicant), filed an application for a Design Review Permit for the a new window (“project”) at 356 West Macdonald Avenue in Atchison Village, a National Register Historic District (premises or property); and,

WHEREAS, the proposed project is exempt from CEQA per *CEQA Guidelines* Section 15331 Historic Resource Restoration/Rehabilitation; and,

WHEREAS, the proposed project location is a residence located in Atchison Village, National Register Historic District and within the Rosie the Riveter/World War II Home Front National Historical Park; and,

WHEREAS, on October 7, 2010, the City of Richmond Historic Preservation Design Review Subcommittee (HPDRS) held a duly noticed public hearing and voted unanimously to recommend approval of the project with modifications to the Design Review Board (DRB); and,

WHEREAS, on October 13, 2010, the Design Review Board held a duly noticed public hearing and voted unanimously to approve Design Review Permit PLN10-172 subject to Conditions of Approval; and,

WHEREAS, on October 25, 2010, the Atchison Village Mutual Homes Corporation filled an Appeal of the Design Review Board’s Approval of Design Review Permit PLN10-172 to the City Clerk in accordance with Richmond Municipal Code Section 15.04.980; and,

WHEREAS, on December 7, 2010, the City Council held a duly noticed public hearing; and,

WHEREAS, the City Council considered all documents and oral and written comments presented at or before the public hearing; and,

WHEREAS, the City Council finds;

HISTORIC STRUCTURES CODE FINDINGS:

1. With regard to any property located within an historic district but which is not a contributing structure, the proposed work does not adversely affect the character and integrity of the district.

Statement of Fact: The proposed window will enhance the historical, architectural, and aesthetic character of the residence by adding a new window that is compatible with the existing windows and architecture of the building.

2. Exterior alterations and additions conform to the Secretary of the Interior’s Standards for the Treatment of Historic Properties.

Statement of Fact: The proposed new window was reviewed for conformance with the Secretary of the Interior’s Standards by the HPDRS on October 7, 2010. The HPDRS determined that the new window installation project was consistent with the Secretary of the Interior’s Standards with modifications. Their recommended modifications were adopted by the Design Review Board as Conditions of Approval.

DESIGN REVIEW FINDINGS:

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 window is compatible with the architectural style of the original home and relates properly to design of other dwellings in the surrounding neighborhood. The original dwelling's architectural integrity will be preserved with a new window that is similar in proportion and size.

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 design attributes of the proposed window are compatible with the existing neighborhood as the addition will not create significant visual impacts to persons living, working, or traveling through the neighborhood. The proposed window will use glass, trim, and siding that are commonly found in this residential neighborhood and will not introduce any new materials that would have adverse effects upon public health, safety or welfare of persons working in or adjacent to the proposed project.

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 proposed window enhances the quality and value of the existing dwelling and surrounding neighborhood as it is compatible with the architectural style of the original dwelling and the design of other structures in the immediately surrounding neighborhood.

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 window complies with all applicable development standards in the Richmond Zoning Ordinance. The MFR-1 Multi-family Residential District and Medium Density Residential General Plan designation for the subject property are specifically intended to enable residential development and its enhancement as proposed by the applicant.

NOW, THEREFORE BE IT RESOLVED that the City Council does hereby affirm the Design Review Board's approval of PLN10-172, subject to the following Conditions of Approval; thereby denying the appeal:

1. **No existing windows shall be removed from the residence** and the installation of the new window shall be built in substantial compliance with the Project Plans, Exhibit A, prepared by Joseph Carulo of California Glass of Vallejo submitted to and date-stamped received by the Richmond Planning and Building Services Department on September 29, 2010.
2. The existing window shall remain unchanged on the exterior. The applicant may enclose the window on the interior, if desired. If enclosed, the exterior facing infill wall shall be painted black.
3. The new window shall be aligned with the header and sill of the existing window.
4. Design Review Board 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 structure 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 prior to expiration.

5. Prior to occupancy, a final inspection shall be performed by the project planner or other planning staff member to verify compliance with the conditions of approval. The contractor must contact the Planning & Building Services Department to schedule the inspection at least 72 hours prior to the requested date.
6. 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 Design Review Board.
7. All conditions of approval shall be written or photocopied on the first page of the construction plans submitted for review and approval. These conditions of approval, and all grading and construction plans shall be kept on the project site at all times during construction. It is the responsibility of the building developer to ensure that the project contractor is aware of, and abides by, all conditions of approval. Prior written approval from the Planning and Building Services Department Director or his designee shall be received by the property owner or project manager before any changes are made to the site design, grade, building design, building colors or materials, or related design elements.
8. Indemnity: The applicant agrees, on behalf of himself, his successor in interest and assigns to defend, shall indemnify, defend and hold harmless the City, its Council, Planning Commission, advisory boards, officers, employees, consultants and agents (hereinafter "City ") from any claim, action or proceeding (hereinafter "Proceeding") brought against the City to attack, set aside, void or annul the City 's actions regarding any development or land use permit, application, license, denial, approval or authorization, including, but not limited to, variances, use permits, developments plans, specific plans, general plan amendments, zoning amendments, approvals and certifications pursuant to the California Environmental Quality Act, and /or any mitigation monitoring program, or brought against the City due to acts or omissions in any way connected to the applicant's project, but excluding any approvals governed by California Government Code Section 66474.9. This indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and costs of suit, attorneys fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by applicant, City, and/or parties initiating or bringing such Proceeding. If applicant is required to defend the City as set forth above, the City shall retain the right to select the counsel who shall defend the City.

I certify that the foregoing resolution was adopted by the City Council of the City of Richmond at a joint regular meeting held on December 7, 2010, by the following vote:

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

NOES: None.

ABSTENTIONS: Councilmember Butt.

ABSENT: Councilmember Bates.

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. 139-10**, finally passed and adopted by the City Council of the City of Richmond at a joint regular meeting held on December 7, 2010.