

ORDINANCE NO. 10-06 N.S.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RICHMOND AMENDING SECTION 15.04.980.060 OF THE CITY OF RICHMOND MUNICIPAL CODE TO PROVIDE FOR GREATER CERTAINTY IN APPEALS FROM THE PLANNING COMMISSION AND DESIGN REVIEW BOARD

Whereas, once an appeal is taken from a decision of the Design Review Board or Planning Commission, such decision is nullified because appeal hearings before the City Council are *de novo* hearings;

Whereas, with appeal hearings before the City Council, if the City Council is unable to break a tie vote or vote on a motion which carries, the result is that no decision can be made on the appeal.

Whereas, greater certainty in the appeal process can be achieved by reinstating the decision of the Design Review Board or Planning Commission in those instances in which the City Council is unable to reach a decision.

Now, therefore, the City Council of the City of Richmond do ordain as follows:

SECTION 1. Section 15.04.980.060 of the City of Richmond Municipal Code is hereby amended to read as follows:

15.04.980.060 Procedures for Appeals.

A. Hearing Date. An appeal shall be scheduled for a hearing before the appellate body within 60 days of the City's receipt of an appeal unless both applicant and appellant consent to a later date.

B. Notice. A public hearing shall be held if the decision being appealed or reviewed requires a public hearing. Notice of public hearings shall be given in the manner required for the decision being appealed or as set forth in Section 15.04.970 (Notices).

C. Hearing. At the hearing, the appellate body shall review the record of the decision and hear testimony of the appellant, the applicant, and any other interested party. The appellate body shall consider only the same application, plans, and related project materials that were the subject of the original decision and only the issue(s) raised by the appeal.

D. Decision. The appellate body shall affirm, modify or reverse the original decision or in case of design review the City Council may refer the decision back to the Design Review Board (DRB) for reconsideration. When a decision is modified or reversed, the appellate body shall state the specific reasons for modification or reversal. Decisions on appeals shall be rendered within 30 days of the close of the hearing. **At the hearing on the appeal before the City Council, if the City Council is unable to break a tie vote or is otherwise unable to reach a decision, and if the City Council does not continue the hearing to a subsequent City Council meeting which takes place within 30 days from the hearing on the appeal, the decision of the Planning Commission or Design Review Board, as applicable, shall stand.**

SECTION 2. Any provisions of the Richmond Municipal Code, or appendices thereto, or any other ordinances of the City inconsistent herewith, to the extent of such inconsistencies and no further, are hereby repealed.

SECTION 3. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof,

irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 4. This Ordinance shall be effective 30 days after passage and adoption.

First read at a regular meeting of the City Council of the City of Richmond held on February 28, 2006 and finally passed and adopted at a regular meeting held on March 21, 2006 by the following vote:

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

NOES: None

ABSTENTIONS: None

ABSENT: None

SANDRA L. THOMSPSON
Acting 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 Ordinance No. 10-06 N.S., finally passed and adopted by the Council of the City of Richmond at a regular meeting held on March 21, 2006, published in accordance with law.