April 1, 2011

To: Planning and Building Division  
   Code Enforcement  
   Design Review Board  
   Planning Commission

From: Richard Mitchell, Planning and Building Services Director

By: Jonelyn Whales, Senior Planner

Subject: Zoning Interpretation – Collection Boxes and DVD Kiosk Machines

The Zoning Administrator has made the following Zoning Interpretations:

DATE: April 1, 2011

TO: Planning and Building Division, Code Enforcement, and Engineering Services

FROM: Richard Mitchell, Planning and Building Services Director
BY: Jonelyn Whales, Senior Planner

SUBJECT: Interpretation of Collection Boxes and DVD Kiosk Machines

The Zoning Administrator has determined that small (approximately 78” tall, 48” wide and 48” deep) collection boxes for clothing and shoe donations and DVD kiosk machines, fall under the Recycling, Small Collections category found in the Zoning Ordinance, Section 15.04.020 Recycling Facility.

Within most commercial districts, such uses are subject to a Zoning Administrative Use Permit. These uses are not permitted in any Residential zoning districts.

Prior to approval of a Zoning Administrative Use Permit, staff must find that the use is not detrimental to the subject site or any businesses in the vicinity. The proposed boxes cannot occupy required parking or landscape areas of the private properties. In addition, specific conditions of approval may be specified in the Zoning Administrator Review approval, including but not limited to the following:

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1. The applicant must submit written authorization from the property/business owner to place the donation box on the property. A copy of said written authorization shall be submitted in the application packet.

2. Donation boxes shall not be located within any public right-of-way.

3. All collection sites, donation and DVD boxes shall be maintained in a litter-free and sanitary manner, in accordance with the Richmond Municipal Code. Any violation of the Richmond Municipal Code will result in issuance of administrative fines and removal of any donation box or DVD kiosk machine that is not in compliance.

4. Donation boxes shall not be located closer than one-half mile (0.5 miles) distance from another approved donation and/or kiosk box.

5. The total number of donation and/or kiosk boxes located within the City of Richmond shall not exceed 21.

6. The applicant shall submit a list of all locations within the jurisdiction of the City of Richmond where collection and/or kiosk boxes are located.

7. Each donation and/or kiosk box shall obtain separate Administrative Review approval. Any box that is moved to a new location shall require a separate Administrative Review Master CUP application.

8. The applicant shall comply with all local, state and federal laws and regulations. Failure to do so shall result in the immediate revocation of the permit and removal of all boxes in the City of Richmond.

9. The Applicant 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, attorney's 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.

Richard Mitchell
Planning and Building Services Director