

MINUTES APPROVED AT THE PC MEETING ON JANUARY 5, 2023

**PLANNING COMMISSION REGULAR MEETING
COUNCIL CHAMBERS, RICHMOND CITY HALL**

Teleconference
November 21, 2022
6:30 p.m.

COMMISSION MEMBERS

David Tucker, Chair	Jen Loy	Vacant
Jonathan Harrison, Vice Chair	Masoomah Sharifi Soofiani	
Bruce Brubaker, Secretary	Alpa Agarwal	

The regular meeting was called to order by Chair Tucker at 6:30 p.m.

ROLL CALL

Present: Chair Tucker; Commissioners Bruce Brubaker, Jen Loy, Masoomah Sharifi Soofiani and Alpa Agarwal

Absent: Vice Chair Jonathan Harrison

INTRODUCTIONS

Staff Present: Roberta Feliciano, Hector Rojas, Lina Velasco, and James Atencio

MINUTES – None

AGENDA

Chair Tucker announced that the meeting was a continuation of the meeting held on November 17, 2022.

NEW ITEM

1. PLN22-171: Terminal 1 Residential Redesign PUBLIC HEARING to consider a recommendation to the City Council of an addendum to an Environmental Impact Report (EIR), a major amendment to an approved Planned Area Plan to modify the housing types and reduce the overall number of units from 316 to 154, a Vesting Tentative Map to subdivide the site, and a Conditional Use Permit for a park and residential uses in the S, Shoreline Overlay District at 1500 Dornan Drive (APN: 560-420-006, -007 and -010). PA, Planned Area and S, Shoreline Overlay District. City of Richmond, owner; Terminal One Development LLC, applicant Planner: Roberta Feliciano Tentative Recommendation: Recommend Approval to City Council

Ms. Feliciano outlined the presentation would review the proposal and actions, background, discussion points, the Addendum to the Environmental Impact Report (EIR) and then end for public comment and Commission discussion and recommendation.

Ms. Feliciano shared that the applicant was requesting a recommendation from the Planning Commission to the City Council to adopt an Addendum to the Final EIR that was certified by the City Council on July 5, 2016, for the Terminal 1 Residential Project. The applicant was requesting a recommendation of approval of a Major Amendment to the previously approved Planned Area (PA) Plan to modify the dwelling unit types and reduce the number of dwelling units from 316 to 185. The 185 units would provide 154 single-family homes with 30 Junior Accessory Dwelling Units (JADU). They also requested approval of the Vesting Tentative Map to subdivide approximately 10 acres of the 13.8-acre project site and recommend approval of a Conditional Use Permit (CUP) for park and residential uses within the Shoreline Overlay District (S).

The staff's recommendation was to hold a public hearing and adopt Resolution No 22-12 as shown in Attachment 1 of the Staff Report.

Ms. Feliciano shared the original Terminal 1 project was approved by City Council in July 2016. The approval included the Final EIR, General Plan Amendment, rezone, Vesting Tentative Map, and PA Plan for the 323-unit subdivision. As part of a settlement agreement, the overall unit count was reduced to 316. The applicant came to the City and stated that the original project was infeasible. They proposed revisions to the Original Project to reduce the number of dwelling units to 185 units and a smaller waterfront park. The proposed site plan titled Site Plan Alternative B provided accessibility to Wharf Park as well as provided emergency vehicle access.

With respect to the PA Plan Amendment, Ms. Feliciano reported a Major Amendment to the PA Plan was proposed to decrease the total number and types of dwelling units previously approved. An Amendment to the PA Plan required a recommendation from the Planning Commission prior to City Council consideration. The purpose of the PA Zone was to facilitate orderly development for sites larger than two acres and consistency with the General Plan. Of the roughly 13.8-acre project site, approximately 10 acres would be subdivided, and the remaining acres would be developed into a new waterfront park. The density of the revised project was proposed to be 15 dwelling units per acre (du/ac). The Original Project was approved with a density of 32 du/ac.

With respect to the Vesting Tentative Map, Ms. Feliciano restated 154 single-family residents were proposed and the site would include 13 common interest parcels, four parcels were to be dedicated to the City, and one commercial parcel. A Homeowners' Association (HOA) would be formed to maintain the subdivision improvements. The parcels dedicated to the City included Brickyard Cove Road, Bay Trail, and the public park.

Ms. Feliciano mentioned that a CUP was required for non-maritime uses within the S Shoreline Overlay Zoning District and the CUP would ensure appropriate protections for habitat, water quality, and public access. The project was also subject to approval from the San Francisco Bay Conservation and Development Commission (BCDC). The purpose of the S Zoning District was to implement General Plan policies for shoreline protections and public access. The project proposed a waterfront park, Bay Trail Segment, and appropriate bayfront landscaping. The proposed project did conform to the zoning and General Plan.

The Design Review Board (DRB) held a public hearing to consider the Major Design Review of the PA Plan Amendment on October 26, 2022. The DRB unanimously recommended approval of the Amendment and Site Plan B to the Planning Commission subject to additional conditions. The DRB recommended 10 additional Conditions of Approval, but the applicant objected to five

of them. The applicant's preferred alternative was Site Plan A which eliminated the vehicle access on Dornan Drive. The first DRB condition the applicant objected to was that the minimum Bay Trail setback from any house shall be a minimum of 12-feet. Implementing that condition could result in the loss of two housing units. The next condition required that 50 percent of the third floor of the middle units be 80 percent of the floor area. The applicant remarked the condition would impact the square footage which could result in the loss of a bedroom for those units, impact the feasibility of the project, and other related impacts. The last three conditions the applicant objected to involve the Bay Trail and the applicant argued that the components proposed in the conditions had not yet been designed. Staff recommended the Planning Commission amend the DRB's Bay Trail conditions to apply where feasible and applicable upon designing the details for the Bay Trail. The applicant would be returning to the DRB for the Major Design Review for the architectural plans for the dwelling units, landscaping, lighting, and signage.

Crescentia Brown, an environmental consultant with ESA, presented the EIR to the Commission. She restated that the City Certified an EIR for the Approved Original Project in 2016 and now the applicant requested the Commission recommend approval of an Addendum to the 2016 EIR for the Proposed Modified Project. The California Environmental Quality Act (CEQA) provided criteria on when a City must prepare a Subsequent EIR for a modified project that was previously approved. She highlighted the differences between the Original Project and the Proposed Project with respect to du/ac, square footage of the structures, stormwater area, earthwork, and construction activities. One of the most significant changes included the increase of on-haul soil volume and associated heavy truck trips associated with the additional soil. The proposed addendum to the EIR changed the Air District's construction health risk methods for the additional soil volume. The construction emission considerations and analysis determined that each of the elements considered in the health risk assessment was found less than significant and required no mitigation measures. Based on the differences and the criteria outlined under CEQA, staff determined that a subsequent EIR was not required for the Proposed Modified Project. The proposed addendum included an updated Mitigation, Monitoring, and Reporting Program (MMRP) that reflected the characteristics of the Proposed Modified Project.

Ms. Feliciano concluded that the project would establish a new community on an existing vacant and underutilized lot. The project included 10 percent moderate-rate housing, a new Bay Trail segment, increased public access to the shoreline, redevelop a brownfield site, and created a new waterfront park.

Chair Tucker invited Commissioners to ask questions of staff.

Commissioner Loy understood an HOA would be established for the project and Ms. Feliciano confirmed that was correct. Commissioner Loy stated this was yet another project that had returned to the Commission with the statement that the approved Original Project was economically infeasible. She asked if the project could return later and state again that the Proposed Modified Project was infeasible. Ms. Feliciano responded that the applicant could return for another PA amendment at a later time if they so choose. Commissioner Loy recalled for a past project some requirements that were based on State legislation and she asked what type of flexibility did the Commission have with respect to requirements for the Proposed Modified Project. Ms. Velasco answered with the Quarry project, they requested a State Density Bonus and waivers that carried specific State requirements. She noted that the Proposed Modified Project was being built on land owned by the City and the Council would consider

separate amendments for the Land Disposition Agreement. That was a different review process than the land use application process.

Commissioner Agarwal asked if the City was selling the land to the developer. Ms. Velasco stated the previous Land Disposition Agreement was to sell the land for \$10 million, but the City was in the process of renegotiating the agreement. Commissioner Agarwal wanted to understand the price that was being negotiated per square foot and the process if the applicant defaults on the payment. Ms. Velasco noted that the Land Disposition Agreement was not under the Commission's purview. Commissioner Agarwal asked why the project was reduced from multi-family to single-family dwellings. Ms. Velasco believed it was due to the increased cost of construction, insurance costs, and unforeseen additional costs. Commissioner Agarwal asked how the City's services would be impacted by the development. Ms. Velasco confirmed the price for City services would increase but once built out, the City would receive property taxes and Impact Fees. Commissioner Agarwal mentioned that many residents have mentioned that property taxes do not cover the increase in City services for new developments. Ms. Velasco noted that the City Council would be discussing the proformas as part of the Land Disposition Agreement. She mentioned that soon, the City would be considering increasing the amount for Impact Fees. Commissioner Agarwal encouraged staff to provide any calculations they had for increased services compared to property taxes received for the new development. She inquired who would pay to develop the 3.8 acres of dedicated land back to the City, did that include improvements to the wharf, and who would maintain those areas. Ms. Velasco confirmed the applicant had agreed to build the park and seismically retrofit the wharf. The City and applicant continued to discuss who was responsible for the maintenance of those areas. Commissioner Agarwal understood that the proposal was one guest parking space per 4.2 dwelling units and she asked if that was adequate. Ms. Feliciano noted for single-family dwellings, there was no requirement for guest parking, but the applicant provided guest parking spaces using the one parking space per 4.2 dwelling unit ratio. Commissioner Agarwal was concerned about the increased cost of City services and Richmond residents paying for the increase.

Commissioner Soofiani expressed that any decision made on the project should be based on the public's input. She wanted to understand what the City's policy was on how to utilize the public-owned land and how the process was used to achieve public benefit. Ms. Velasco restated that the City Council had issued a Land Disposition Agreement to sell the property which had been in effect since 2014. Staff brought forward a request from the applicant to reconsider the terms of the agreement and the City Council was considering it. Also, per the City's Community Benefits Ordinance, the Council will consider the community's benefits for the project. Ms. Velasco encouraged the Commission to focus its discussion on the requested land use approvals. She emphasized that the Planning Commission was a recommending body for the project and that the ultimate approval would come from the City Council. Commissioner Soofiani inquired what the zoning designation was for the parcels and Ms. Velasco answered medium-density residential. Commissioner Soofiani believed it was a missed opportunity to build housing on a parcel that could be used for recreational use. She wanted to see more community workshops and public engagement to understand if the community supported using the land for single-family homes.

Commissioner Brubaker understood the Commission was considering an amendment to an existing approved project and Ms. Velasco confirmed that was correct. Commissioner Brubaker remarked the Original Project went through a considerable amount of public input.

Chair Tucker referenced the letters and emails received from the public regarding the setbacks. He wanted to understand the differences, with respect to setbacks, between the Original

Proposal and the Proposed Modified Project. Ms. Velasco mentioned the Original Project included Shoreline Drive which separated the private and public improvements. The Original Project included a 3-foot landscape buffer with stormwater treatment areas and those were eliminated in the Proposed Modified Project. She noted it was typical in Marina Bay to not have a separation between the private and public areas. Chair Tucker wanted to understand the composition of the soil that was to remain on site. Ms. Velasco shared that the City received funds from the previous owner who contaminated the site and those funds were used to treat the contaminants in the dirt. She noted that bringing soil to the site was not related to the cleanup, but rather to elevate the site for sea level rise. Chair Tucker asked if there was a condition to repair the roads after construction and Ms. Velasco answered yes.

Chair Tucker invited the applicant to present their presentation.

Paul Menzies, CEO of Laconia Development, applicant, requested to have 20 minutes for the presentation to address all aspects and comments about the projects.

Mr. Rojas remarked in order to extend the time allotted, that required a 2/3 vote from the Commission.

ACTION: It was M/S/C (Tucker, Brubaker) to extend the applicant's time from 10 minutes to 15 minutes; which carried by the following vote: 5-0-1 (Ayes: Tucker, Brubaker, Loy, Agarwal, Soofiani; Noes: None; Absent: Harrison).

Mr. Menzies reported within the 154 single-family homes, 92 were single-family detached homes and 62 were duplexes. He reported that before any construction could begin, the seismically unstable site must be stabilized and that the soil and groundwater contamination left over from the City's clean-up efforts must be remediated. An independent engineering report indicated that the wharf must undergo a major retrofit to prevent its collapse in a seismic event. The lead paint-contaminated warehouse must be demolished and the un-engineered artificial fill covering the site must be engineered to modern standards. The City required the wharf and entire waterfront to be converted into a public park. He mentioned unless the City could not complete the sale of the site by the end of the year 2022. The site would become subject to the requirements of the State of California Surplus Lands Act. That meant the site would be offered to developers of low-income housing and would be subject to State oversight with City control substantially restricted. Also, the City would have to remediate the environmental contamination, demolish the contaminated warehouse, and continue to pay the 24-hour site security.

The project would provide remediation of the unstable site, complete the clean-up of the contaminated soil, demolish the warehouse, seismically retrofit the wharf, provide mitigation of the un-engineered soil and address sea level rise. The cost of the work was approximated at \$21 million. The project would provide payment to the City of approximately \$16 million with possibly an additional \$5 million based on negotiations, provide payments of \$3 million in ongoing annual property tax and support adjacent property values by cleaning the soil and stabilizing the site.

Mr. Menzies acknowledged the DRB Chair's remarks outlined in the letter sent to Mayor Butt and forward to the Commission. Mr. Menzies was surprised by the comments because his team had met with the DRB Chair on 15 occasions to receive his comments and suggestions. Based on the DRB Chair's and the other Board Member's comments, the project undertook six substantial revisions. On October 26, 2022, the Chair and other DRB Members unanimously

approved the project but he noted that the Chair provided criticizing remarks about the project after he voted yes for the project. Mr. Menzies summarized the DRB Chair's criticism pertained to density, luxury versus moderate level housing, height, unit aesthetics, and the feeling of a quaint East Coast village seaside town.

Mr. Menzies addressed Mayor Butt's comment that the letter written by the applicant was in a threatening tone and meant to intimidate the City. He clarified the letter was written in a respectful tone to point out that City Officials must maintain a neutral position. Failure to do so could prejudice other parties and represent a clear conflict of interest. Mr. Menzies mentioned that on December 19, 2022, Mayor Butt wrote in his e-forum that the City of Richmond was a challenging place to develop because the prices were lower compared to the rest of the Bay Area while construction costs were high.

Mr. Menzies referenced three recently approved and constructed projects in the City. He shared the design of the home for the Proposed Modified Project which he mentioned were similar to the other projects. He noted that the DRB Chair suggested making the duplexes different on each side and that was implemented into the design. He concluded the presentation by sharing visuals of the waterfront park.

Chair Tucker invited Commissioners to ask questions of the applicant.

Commissioner Agarwal inquired why the project contained single-family homes instead of multi-family structures. Mr. Menzies answered the homes were designed for high density with high-quality finishes but to be market rate affordable. He noted it took 7 years to obtain entitlements for the multi-family project. The project received its approval right before the COVID-19 Pandemic which caused the sale price for condominiums to decrease substantially and they had not recovered. The project was converted to single-family because single-family remained to be the preferred housing type. He mentioned the City hired an economic analyst who reviewed both projects and determined that taxes paid by the single-family project would cover City services and provide a surplus. Commissioner Agarwal stated the majority of the project was not affordable. Mr. Menzies restated that the word "affordable" applied to "Bay Area affordable" and the project was targeting the middle class. Commissioner Agarwal respectfully disagreed with Mr. Menzies' comment.

Chair Tucker invited Brian Lewis, who represented the opponents of the project, to share his comments with the Commission.

BRIAN LEWIS reported a meeting was held on November 20, 2022, at the Richmond Yacht Club to discuss the project and over 60 residents attended. Many of the attendees had strong reactions of opposition to the architectural design of the project. He mentioned that the Vesting Tentative Map had to be resubmitted many times due to errors that were identified by the DRB Chair and others. With respect to the contaminated soils, he mentioned the soils were proposed to be stockpiled, uncovered, and exposed to the environment. The process would cause odors and dust and that was not considered in the EIR. Mr. Lewis mentioned there was a settlement agreement with the City, Laconia, and the Richmond Yacht Club that included restricted building heights which were exceeded in the Proposed Modified Project. He requested that the proposal be revised to reduce the height to two stories near the Richmond Yacht Club and that the previously approved four-story structure near the radial turn opposite Building Five be converted back to four stories. Per the S Zoning District provisions, housing was not permitted within 100 feet of the shoreline and he requested that the water line be moved back to its original position to account for the shoreline. He commented that the project was being pushed through the

process at a fast pace and many components were being missed such as the DRB being constrained on their review of the project. Other concerns from the Richmond Yacht Club pertained to the proposed retaining wall and drainage, stormwater runoff, the retention basins, and traffic. Other issues included an insufficient review in the EIR with respect to the cleanup of the site, the amount of construction vehicle trips along Brickyard Cove Road, and the rehabilitation of the road after construction. He mentioned the City never took over management of the road and currently four HOAs paid for the maintenance of it. He requested that staff play a short video highlighting parking which showed cars parked along Miller Knox Park down to the tunnel on a typical Saturday. He expressed concern about the JADUs that were not required to have parking and the project bringing more cars to the area.

Chair Tucker asked for more details about the settlement agreement between the Richmond Yacht Club, the applicant, and the City. Ms. Atencio restated the City and the applicant had entered into a Land Disposition Agreement in 2016 and were currently renegotiating the terms. Chair Tucker wanted to understand the impact of that agreement if the Commission recommended conditions that went against the agreement. Mr. Atencio remarked the parties of the settlement agreement could seek an injunction against the City in order to ensure the terms of the settlement agreement were enforced. Mr. Menzies remarked the settlement agreement between the Laconia and Richmond Yacht Club was for a different project and did not apply to the Proposed Modified Project.

Public Comment:

ANTHONY MURPHY, a resident of Point Richmond, echoed Mr. Lewis' comments. He shared he was a developer and had built projects in the City. He shared concerns about traffic, the EIR, and the aesthetics of the buildings. He wanted to see the structures be architectural marvels and believed the design was very middle of the road. He wanted to see the traffic study revisited due to the lane closure on the bridge for the bike lane.

BRUCE BEYAERT, Chair of Trails for Richmond Action Committee (TRAC), requested the Commission forward an additional five conditions in addition to the conditions recommended in their letter from November 16, 2022. The first two conditions were to require that the Bay Trail and waterfront park be completed during the first phase of the project and be maintained by the HOA. The second two conditions pertained to the realignment of the existing Bay Trail along Brickyard Cove Road and that the old trail not be closed until the new trail segment is complete. The fifth condition was to improve the sharp turn in the Bay Trail at the southwest corner of the site.

SUSAN HUBBARD was very concerned about parking and the Bay Trail. She wanted the Bay Trail to be kept over during construction. She foresaw major parking congestion happening with the addition of the 30 JADUs. She expressed concern about the height of the buildings along the Richmond Yacht Club property line and understood the settlement agreement between the yacht club and the applicant ran with the land, not the project.

PETER BARNES commented that the northeast tank farm had not received any mitigation for its contaminates. He did not support turning the contaminated soils and allowing it to cook off in the sun. He wanted to understand more about water runoff. He concluded that the meeting was not posted on the City's website nor was the link to attend the meeting.

WILL ANDERSON, a member of the Richmond Yacht Club, stated his primary concerns pertained to permanent shading impacts and loss of sunlight due to the height of the structures

along the east side of the site. He strongly requested that the Commission deny the staff recommendation due to critical flaws in the plans and the project not complying with Major Amendment Finding D.

CHRIS COOK, a member of the Board of Directors for the Seacliff HOA, remarked the Board of Directors of Seacliff urged the Commission to finally fix the City's incompetence with respect to the ownership of Brickyard Cove Road and its maintenance.

LEISA JOHNSON, resident and homeowner in Brickyard Cove, reported that many residents, including herself, believed that staff was working for the developer and not on behalf of the community. She did not believe there would be a less than significant impact with hundreds of trucks bringing in soil to the site as well as no impacts to traffic with the new residences. The proposed project did not provide an emergency evacuation plan and the recent changes to bike lanes and increased rail activity placed all the residents at risk during an emergency.

EILEEN LEWIS referenced the traffic video shared by Mr. Lewis and predicted that the new residents of the project would not use their garages for their cars. The proposal created an issue for health and safety for all residents in the area. She encouraged the Commission to deny the application and have it return with additional parking.

JOHN STAFFORD, a homeowner in Brickyard Cove, announced his support for the DRB's recommendations related to the Bay Trail. He stated the cubic yard fill would have a significant impact on the tunnel and the adjacent roads. He wanted to see that addressed more thoroughly. The three-story duet units along Brickyard Cove Road were too close to the road, too dense, and needed more articulation in the structures. He said it was new news that Brickyard Cove would be asked to contribute resources for the maintenance of the wharf and the park. He wanted to see better community input on the newly Proposed Modified Project and requested that the project be postponed.

THOMAS KNOWLES, a resident of Point Richmond and member of the Richmond Yacht Club, stated the Commission was being asked to make a decision prematurely and that the Commission did not have sufficient details on specific aspects of the project. He mentioned the S Zoning District did not allow non-water structures within the 100-foot tidal buffer and the Proposed Modified Project had many structures within that space.

HERB AND MARILYN FREEDMEN emphasized the unique ingress and egress to the Point Richmond area and both were frequently blocked by trains for up to 30 minutes. He noted that just one or several unfortunate events that blocks the ingress and egress points and additional people would cause a huge problem. He concluded by sharing his concerns about the spacing between the homes near the Richmond Yacht Club.

JEFF SHUKIS, a Brickyard Cove resident, wanted to see the parcel developed but done intelligently. He encouraged the Commission to deny the project due to the rushed process and poor design. He shared the concerns about the added height to the structures near the yacht club. He believed the parking plan was designed to fail and that the residents wanted assurances that adjacent roads would be fixed.

BETH CONKLIN, a resident of Brickyard Cove, remarked that the site should be developed in a way that brought honor to its history, and to the City and the proposed project did neither. She did not want to see the site developed with another cramped housing development. She mentioned that the Brickyard Cove neighborhood was adequately parked and no parked cars

could be seen on Brickyard Cove Road. She wanted to see the Proposed Modified Project contain all cars associated with the project be housed on the project site.

MEGAN BLECKINGER, a resident of the Seacliff neighborhood, shared concerns about having construction trucks bringing in soil to the site via Brickyard Cove Road. She stated it was a safety hazard to have large trucks coming down the street with residents crossing the road. She did not support the combined height of the structures and infill.

PAULA LAVINE supported all of the comments made by the previous speakers. She wanted to see more parking and was concerned about the amount of fill coming to the site. While she supported the development of the site, she did not support the Proposed Modified Project.

PATRICIA TOSTENSON a resident of Sanderling Island and a member of the Richmond Yacht Club, expressed concerns about the height of the homes proposed near the Richmond Yacht Club. She was also concerned about emergency access to the surrounding neighborhoods.

KATHRINE DIENST, a resident of the Seacliff neighborhood, commented the Proposed Modified Project was an improvement over the approved 2016 project. She invited the applicant to consider the Noma houses on Mass Cove and Harbor Light which included a car pad for additional parking for each home. The proposal did not include an adequate grading plan and without one, folks could not analyze the safety of the exits and drainage. She concluded in 2016, the City of Richmond gave the applicant \$2.5 million to clean up the site, but that work never took place. She wanted to see those funds returned to the City if the development fell through.

JEFF VINES, a resident of Brickyard Landing, commented that the current plan was too dense and not adequately spaced. He also shared the concerns about parking, the concerns about height adjacent to the yacht club, the Bay Trail comments, and ownership of Brickyard Cove Road.

ROBERT, referenced a letter to Ms. Velasco dated February 18, 2020, where a member of the Regional Water Quality Control Board stated the proposal to excavate contaminated soil would not adequately reduce the risk to human health and the environment. He concurred with the previous speakers that the contaminated soils were not adequately addressed in the EIR. He wanted to see a condition be placed on the project where the developer paid for a third-party consultant to be on hand during construction to monitor the air to ensure hazardous mitigation measures were being enforced.

MIKE JOSELYN, spoke on behalf of the Board of the Richmond Yacht Club and restated the Board's focus was on the adverse impacts on the yacht club's property. While the yacht club strongly supported the conditions set by the DRB, there were many issues still unresolved. The club needed access to the lockers on site, the proposed steel picket fence was not adequate, and several others. [audio dropped out]

JESSIE WEST, a resident of downtown Point Richmond, shared she had watched the area develop over the years and it bring dangerous traffic conditions with that development. She shared the concerns about additional traffic the project would bring to the already congested area. The EIR inadequately analyzed traffic impacts.

FRANK GOETZ, resident of Point Richmond and architect, announced he was pro-development but was very disappointed with the Proposed Modified Project. The project lacked housing

quantity as well as quality housing. He agreed that single-family homes were not affordable homes. He urged the Commission to deny the project and that the project be sent back to the drawing board.

MARK HATHAWAY, a resident of the Seacliff neighborhood, shared the concerns of having thousands of dump trucks using Brickyard Cove Road. He mentioned during the last development in the area, his entire house and yard was covered in dust. That posed very real health risks to himself, his wife, and two small children. He reiterated that the City had not done enough review with respect to the ingress and egress of the area.

TOM PATTERSON, Richmond Yacht Club Member and licensed architect, agreed that the site was a unique gem and the only available waterfront property with deep water access and spectacular views of the Bay. He was very disappointed in the lack of imagination, vision, and leadership on the part of the City that allowed a poorly designed project to progress so far along the process. He stated the proposed site plan was a failure, the architecture was terrible, and the spacing between the buildings was unacceptable.

JENNY BALISLE, former Chair of the Richmond Arts and Culture Commission, announced her full support for Mr. Beyaert's recommendations. She wanted to see public art be used as the bridge between the development and the proposed waterfront park. She invited the City and the applicant to work with ARTSCCC to design such a piece.

Mr. Joslyn continued his comments due to technological issues. He concurred with the comments about the wear and tear of Brickyard Cove Road.

Chair Tucker invited the applicant to share their rebuttal comments.

Mr. Menzies emphasized that the project had been exhaustively studied over 18 months and had evolved during that time. He commented that Laconia was willing to work with the neighbors and the yacht club to address as many of their concerns as possible. He acknowledged that there was a role for Laconia to play with respect to Brickyard Cove Road along with the other partners invested in the roadway. He mentioned that the design of the project would not satisfy everyone, but the DRB had unanimously approved the project.

Chair Tucker invited the representative of the opponents to share his rebuttal comments.

Mr. Lewis believed Mr. Menzies had misspoken when he announced that the settlement agreement did not apply because it went with a different project. The settlement bound the City of Richmond as well as the developer for the Terminal 1 project. The project was rushed and the project shared with the community was not the same project presented to the Commission. The S District was not addressed in the application, there were issues related to the CEQA document, and the application was incomplete.

[The Commission took a short break]

Chair Tucker invited the Commissioners to ask questions of staff or the applicant.

Commissioner Loy asked if it was feasible to have the taller structures with the roof decks moved away from the Richmond Yacht Club property line. Mr. Menzies answered something could be done and one possibility was to remove the roof decks.

Commissioner Agarwal inquired if mitigation and monitoring were included in the EIR document. Ms. Velasco confirmed mitigation measures had been incorporated into the project and had been revised to reflect the Proposed Modified Project. Ms. Brown added in the last chapter of the addendum was a list of all of the mitigation measures for the project. Mitigation measures included air quality, biology, cultural resources, greenhouse gas emissions, climate change, and several others.

Commissioner Brubaker asked if the daylighting of soil and emissions of containments into the air were addressed in the Original Project's EIR and did it included safety mitigations for off-gassing. Ms. Brown confirmed the EIR recognized the amount of cleanup work needed for the site. Hazardous material mitigation was a process and hazardous mitigation measures were, in practice, broad and performance-based. Page 47 of the addendum spoke to the new information that was available when the addendum was prepared. The addendum determined that the hazardous material mitigation measures outlined in the Original Project's EIR did not need to be changed based on the new Proposed Modified Project. Commissioner Brubaker requested additional details about the maintenance of Brickyard Cove Road and if there was an agreement in the Original Project for maintenance of the road. Ms. Velasco concurred there was a standard condition to repair any construction impacts to the adjacent roads for the Original Project. With respect to the dedication and acceptance of the road, she believed that was a new issue and the discussion may have fallen through with a change in the Public Works Department staffing. She shared the Public Works Department was exploring an approach to repair the road to City standards so that the City could accept the dedication. Commissioner Brubaker asked if the road and its improvements would be discussed at the Council with the Land Disposition Agreement. Ms. Velasco believed the project would make a contribution to the road but would not solely be responsible for the road repair.

Chair Tucker wanted to know when a traffic study was last done for the area. Ms. Brown explained the traffic analysis was updated to reflect the Proposed Modified Project's assumed traffic. No new full traffic analysis was conducted for the Proposed Modified Project addendum as it was not required. Ms. Velasco concurred the analysis included updated traffic calculations but did not include updated traffic signal impacts. She predicted the last traffic analysis was prepared in the year 2017.

Commissioner Soofiani wanted to understand if the EIR addressed the concerns that the project was too close to the shoreline and was not meeting the S Zoning District requirements of a 100-foot buffer. Ms. Velasco answered the CUP and the CEQA document helped the City ensure that the project considered biological resources, water quality, and public access. The stabilization of the wharf, the new greenbelt, and other components compensated for the development being located in the 100-foot setback. Commissioner Soofiani inquired if view corridors would be protected and Ms. Velasco answered yes, the DRB had recommended Site Plan Alternative B because the site plan was more inviting to the public. Commissioner Soofiani noticed the view corridors from the alleys were blocked by single-family homes along the southside and the only view corridor was the one outlined in the middle. Ms. Velasco agreed but added a view corridor could be seen in the cul-de-sac off Dornan Drive and through the Bay Trail. Commissioner Soofiani asked how sea level rise was being addressed. Mr. Cleve Livingston, BKF Engineering, stated the first strategy was to mitigate measures as part of the initial construction of the project to guarantee the elevations were at least 4 feet above flood levels for a 100-year storm event. Above 4 feet, the EIR required exploration of the rate at which the sea level was rising in a year 2035 context and one proposal was to build a seawall to protect the project. Commissioner Soofiani understood to reach 4 feet above the flood level, the idea was to bring in soil to raise the elevation. Mr. Livingston confirmed that was correct, the soil

protected against sea level rise as well as established a buffer between the residents and the contaminated soil. Commissioner Soofiani mentioned there were no elevation differences outlined between the sea level side and the adjacent streets. Mr. Livingston noted the Vesting Tentative Map included a preliminary grading plan which included the grades set for the project as well as the drainage plan and utility plan. He noted the Vesting Tentative Map was only amended once.

Commissioner Agarwal wanted to know who would pay for the construction of the seawall and who paid for the seawater rise. Mr. Livingston answered the HOA or neighborhood would pay for the seawall and the sea rise. The need to build a seawall would be identified way in advance so that the homeowners could pay incrementally to create a reserve fund for the construction of the seawall. It would not be a City liability. Commissioner Agarwal asked how the project determined that 4 feet for sea level rise was an adequate height. Mr. Livingston commented that the chance of the sea level rising by 3 feet in the next 50 years was very improbable. The project also included seismic stabilizations to handle the seismic activity.

Commissioner Soofiani wanted to know who was overseeing the cleanup of the site. Ms. Velasco mentioned the City's consultant WSP was drafting a Remedial Action Plan Addendum for the site and any incomplete cleanup efforts would be reassigned to the new owner once the Land Disposition Agreement was finalized.

Chair Tucker asked for the applicant's response to the five proposed conditions requested by TRAC. Mr. Menzies stated if the Bay Trail can safely remain open during construction, that will be done, but there must be a realization that there are liabilities if it is not safe and left open. He remarked that changing the southwest corner curve of the Bay Trail would change the entire development. The best solution for the project was to install additional warning signage about the curve.

Commissioner Soofiani mentioned Caltrans had a manual that discussed angles, curves, and radii and that should be referenced and used in the design of the project. Mr. Menzies noted that all streets in the design complied with all requirements. Mr. Livingston mentioned the Bay Trail was to be moved to the northern edge of the wharf, per the request of TRAC, and bicyclists would be encouraged to use slow speeds through the area.

Chair Tucker inquired if signage for the Bay Trail was included in the proposed CUP and Ms. Feliciano reminded that the project would be returning to the DRB for review of the architecture, floor plans, landscaping, lighting, and signage. Chair Tucker wanted to understand who would maintain that segment of the Bay Trail. Mr. Menzies answered it was not fair to ask the HOA to build and maintain the wharf and Bay Trail. He assured Chair Tucker that maintenance of the wharf and Bay Trail were discussion points for the Land Disposition Agreement.

Commissioner Agarwal stated that after crunching the numbers, the margins were heavily favored by the applicant. Ms. Menzies disputed Commissioner Agarwal's calculations and respectfully stated they were nowhere near the amount Commissioner Agarwal projected.

Chair Tucker summarized the items the Commission could take action on in its recommendation.

Commissioner Brubaker stated the issue was whether the Commission supported the amendment to the original approval. He announced he could not support the amendment compared to the Originally Approved Project. The Originally Approved Project provided

significant benefits that were not included in the Proposed Modified Project. He said it was in the Commission's purview to understand if the Proposed Modified Project would result in a beneficial change for the City and not approve it because the process followed all of the regulations. He concluded that the Proposed Modified Project fell short based on its merits.

Commissioner Soofiani agreed with Commissioner Brubaker. She wanted to see the addendum to the Original Project go through a public process and the proposal was lacking that step.

Commissioner Loy agreed with Commissioner Brubaker and Soofiani.

Commissioner Agarwal stated she had not supported the addendum from the very beginning and she did not understand what the net benefit was to the City of Richmond.

Ms. Velasco requested that the Commission highlight which findings it could not be made and the reason why it could not make them if it chose to recommend denial.

Commissioner Brubaker and Commissioner Loy could not make Finding F of the Vesting Tentative map. Commissioner Brubaker explained there was an existing proposal for the site that was superior to the Proposed Modified Project. Commissioner Brubaker stated the critical issue among all the issues was the downgrade in the amount of housing proposed for the vacant City-owned parcel.

Chair Tucker could not make Finding B, that the site was physically suitable for the type of development and the proposed density of the development. He mentioned that was not adequately addressed in the Proposed Modified Project.

Commissioner Agarwal mentioned the finding addressing transportation had not been adequately addressed.

Ms. Feliciano asked for further explanation on why the Commission did not support the proposed density. Commissioner Brubaker wanted to see the site accommodate more units. If that was not a finding, he recommended the findings be changed to address the need for more housing in the city. Chair Tucker and Commissioner Loy concurred. Commissioner Soofiani wanted to see the site have multi-family housing to facilitate more open space. She announced she supported the Original Project.

Commissioner Agarwal indicated that Section F of the Vesting Tentative Map Finding #2, the mix of uses, housing types, and price levels, was the finding that Commissioners Loy, Brubaker, Soofiani, and herself could not make.

Ms. Feliciano summarized Finding B under the Vesting Tentative Map, PA Plan Section Finding F #2, and Finding #4 pertaining to infrastructure could not be made by the Commission.

Commissioner Agarwal mentioned she could not make the infrastructure finding based on the evidence provided with respect to the evacuation plan and maintenance of Brickyard Cove Road.

Commissioner Loy mentioned the sequencing with the other conversations that the City was having with the applicant and the Commission discussing the proposal was off.

Commissioner Soofiani wanted to understand the community engagement process for City-owned land proposals. Ms. Velasco shared that the City encouraged all applicants to reach out to neighborhood councils and staff expanded the noticing radius for the project given the large amount of interest in the project. For future City-owned land proposals, the City would be following the Surplus Land Act process.

Ms. Velasco asked if there were components of the other actions that the Commission was comfortable making or if it was all specific to the Major Amendment. Ms. Atencio noted the Commission could not make a finding under the Vesting Tentative Map.

ACTION: It was M/S/C (Tucker, Brubaker) to recommend denial to the City Council for the following reasons: regarding the Vesting Tentative Map Item B, the PA Plan Amendment Findings F #2 and F #4; which carried by the following vote: 5-0-1 (Ayes: Tucker, Brubaker, Loy, Agarwal, Soofiani; Noes: None; Absent: Harrison).

Commissioner Agarwal thanked Mr. Livingston and Mr. Menzies for their presentation.

Mr. Menzies thanked the Commission for their time and attention.

COMMISSION BUSINESS

2. Reports of Officers, Commissioners and Staff – Commissioner Agarwal mentioned there was a lot of vacant land along Richmond Parkway and asked if there was a plan for that area. Ms. Velasco requested that Commissioner Agarwal share the addresses of the parcels in an email and staff would provide an answer.

Ms. Velasco shared that City Hall would be closed in observance of the Thanksgiving holiday.

Commissioner Soofiani mentioned the updated Housing Element identified suitable sites for housing. The Terminal 1 site she remarked should be an attraction and become an economic engine for the City.

8. Adjournment - The meeting was adjourned at 10:50 p.m. to the next regular meeting on December 1, 2022.