



PLANNING COMMISSION

# AGENDA REPORT

August 17, 2020

**PREPARED BY:** Lina Velasco, Community Development Director

**SUBJECT:** **GENERAL PLAN AMENDMENT, ZONING AMENDMENT, VESTING TENTATIVE MAP, MAJOR DESIGN REVIEW, CONDITIONAL USE PERMIT DEVELOPMENT AGREEMENT AND SUBSEQUENT ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE POINT MOLATE MIXED-USE DEVELOPMENT PROJECT (PLN20-57)**

**LOCATION:** 2100 Stenmark Drive (APN: 561-100-008)

**APPLICANT:** Winehaven Legacy LLC

**OWNER:** City of Richmond

**ZONING:** PR, Parks and Recreation, CG, Commercial General, IL, Industrial Light, RM-1, Medium Density Residential, RH, Hillside Residential OS, Open Space, IS-3, Point Molate Interim Study Zone L-, Landmark Overlay (Winehaven Historic District); and -S, Shoreline Overlay (100-foot shoreline band)

**GENERAL PLAN:** Hillside Residential, Medium Density Residential, Parks and Recreation, Business/Light Industrial, and Open Space

**CEQA:** The City of Richmond (City), acting as Lead Agency, has prepared a Subsequent Environmental Impact Report (SEIR) (State Clearinghouse #2019070447), consisting of a Draft Subsequent Environmental Impact Report and Responses to Comments document (Final SEIR) (collectively, the Draft SEIR and Final SEIR are the SEIR), per CEQA Guidelines Section 15162 to analyze the potential environmental effects of the proposed Point Molate Mixed-Use Development Project (Project) (further details and discussion are contained in the Environmental Review Section of this report). The Draft SEIR was released for a 70-day public comment period on February 21, 2020. The public comment period ended at 5 PM on April 30, 2020. All comments received on the Draft SEIR by the close of the comment period are responded to and addressed in the Final SEIR, which was released on July 24, 2020.

## **PROPOSAL:**

The Point Molate Mixed Use Development Project (Project) proposes a mixed-use community that would include the following components: open space, rehabilitation and adaptive re-use of the contributing structures of the Winehaven Historic District, commercial development, and residential development. The Project Site is owned by the City of Richmond (City) and portions of the Project site are proposed to be sold to the applicant (Winehaven Legacy LLC) as part of a Disposition and Development Agreement (DDA) with the City.

The Project entitlements include a General Plan Amendment, Zoning Amendment, Design Guidelines, including a Master Planned Area Plan and Historic Conservation Plan, Vesting Tentative Map, Conditional Use Permit, and Major Design Review of the Design Guidelines, further described below in the Discussion section. The Project also includes a Development Agreement and the DDA.

### **Planned Area Plan (Master Plan) Proposal for the Project**

As part of the project entitlements, the Project includes a Zoning Amendment to a Planned Area (“PA”) District, which requires preparation of a PA Plan. The PA District zoning is intended to facilitate “orderly development of larger sites in the City consistent with the General Plan, especially where a particular mix of uses or character is desired that can best be achieved through an integrated development plan.” (Richmond Municipal Code, § 15.04.810.010.) The Applicant has submitted a Master PA Plan, and this Master PA Plan will guide the future development of individual projects for the Project Site. Although not required by the Municipal Code, to address the complexity of the Site, the Applicant also submitted Design Guidelines to guide the future development of individual projects in the Project Site. The Master PA Plan is Chapter 2 of the Design Guidelines, which also contains chapters providing an introduction, architectural guidelines, historic district guidelines (the Historic Conservation Plan), and landscape guidelines. The PA District approval, together with the accompanying Design Guidelines that include the Master PA Plan, is part of the initial legislative (high-level policy) approvals phase for this Project that must be approved by the City Council. Future projects within the PA District area would come back to the City for subsequent entitlements review using a Development Plan review and small-lot subdivision map approval process to determine if the project-level applications are generally consistent with the City Council approvals, including the PA District zoning, the Master PA Plan, and the rest of the Design Guidelines, and the Subsequent Environmental Impact Report (SEIR).

The Project identifies eight Planning Areas (Planning Areas A through H) within the Project Site that could be developed with the proposed mixed-use community. Potential developable areas within the Planning Areas (referred to herein as Development Areas) would be limited to approximately 30 percent of the total above-water Project Site area (approximately 82.74 acres) by the Project’s entitlements. Development within the Winehaven Historic District would include rehabilitation and adaptive reuse of the existing contributing structures of the District, as well as new construction. The Project proposes to rehabilitate all of the contributors to the Historic District per the Secretary of the Interior’s Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.

The PA District for the Project Site defines its development capacity as follows:

- A. Residential Capacity: up to 2,040 residential units in eight Planning Areas as follows:
  - 1. Planning Areas A and B: 408 new units
  - 2. Planning Area C: 168 new units
  - 3. Planning Area D: 66 new units
  - 4. Planning Area E: 300 new units
  - 5. Planning Areas F, G, and H: up to 625 new units and up to 473 units in the existing historic buildings

The PA District allows up to a 20 percent increase in the residential development capacity of any planning area as long as the total number of residential dwelling units in the PA District do not exceed 2,040.

- B. Historic District: The development capacity in Planning Areas F, G, and H, which comprise the Winehaven Historic District, can be in the range of (1) 1,098 residential units and up to 40,000 square feet of general commercial space and (2) 318 residential units with up to 624,572 square feet of general commercial space; or (3) anything in between on the basis that each residential unit is interchangeable with 750 square feet of general commercial space, up to 780 units.
- C. Commercial Capacity:
  - 1. Planning Areas F, G, and H: The PA District allows up to 624,572 square feet of general commercial space (which can include neighborhood-serving commercial spaces), of which up to 40,000 square feet can be high-trip commercial uses, such as regional-serving retail and restaurant uses.
  - 2. Planning Areas A and E: The PA District allows up to 15,000 square feet of neighborhood-serving commercial spaces.
- D. Cultural and Civic Capacity: Planning Areas D, E, and F permit up to 10,000 new square feet of buildings for cultural and/or civic uses. Cultural and civic uses also are permitted in other planning areas as per the proposed PA District zoning. Up to 5,000 square feet can be refurbished (or if necessary constructed) in Planning Area E for a building to serve water transit uses.

Approximately 70 percent of the Project Site above-water (approximately 193 acres) would remain as publicly accessible parks and natural open space, including miles of hiking and biking trails. The Project will increase shoreline access by extending and improving the existing shoreline park and contribute towards the completion of some segments of the Bay Trail. The Project also would include new roads to serve the development within the Site, including widening Stenmark Drive from the Project Site to the I-580 ramps and construction of utility and infrastructure needed to support the Project.

## **Refined Project Proposal**

Since publication of the Draft SEIR, the applicant has submitted a project application with minor refinements to the Modified Project (Refined Project) that was analyzed in the Draft SEIR, proposing a mixed-use community that would include the following components and refinements:

- Approximately 1,452 residential units.
- Approximately 374,573 square feet of rehabilitated existing, historic structures and approximately 250,000 square feet of new construction for mixed-use development.
  - Out of this square footage, the Project includes approximately 423,774 square feet of commercial uses, including up to 40,000 square feet of regional retail, and 383,774 square feet of Office/R&D and/or Live/Work space.
- Approximately 15,000 square feet of neighborhood retail is proposed outside the Winehaven Historic District.
- Approximately 10,000 square feet for an onsite joint fire station and police substation and/or other community service uses.
- Approximately 70 percent of the total above-water Project Site area would remain as open space, including recreational areas, parks, trails (including an approximately 1.5-mile portion of the San Francisco Bay Trail along the shoreline), vista overlooks, and other similar spaces that are open to the public.
- Updating an existing building to act as a terminal on the existing pier that may be accessible to water transit options, such as ferries, water shuttles, and/or water taxis.
- New roads to serve the development within the Project Site; additionally, widening Stenmark Drive from the Project Site to I-580 Ramps.
- Utilities and infrastructure improvements that would be required to serve the new development.

As part of subsequent entitlements for the Project, as part of the Development Plan review process, future projects within the PA District area shall be reviewed by the Zoning Administrator for conformity with the illustrative land use master plan approved by the City Council, consisting of up to 1,452 residential units (up to 510 units in Planning Areas F, G, and H) and up to 453,774 square feet of non-residential uses. A deviation from the illustrative master plan that nevertheless falls within the mix and envelope of land uses evaluated in the SEIR and the Development Capacity defined in section 1.020 of the Project's proposed PA District zoning can be approved as a minor program amendment by the Zoning Administrator. Major amendments to the PA District or the Master PA Plan require additional City Council review and approval

### **RECOMMENDED ACTIONS:**

1. Hold a public hearing; and
2. Adopt Resolution No. 20-12, recommending certification of the Final SEIR and adoption of the MMRP subject to revisions proposed by staff, adoption of CEQA Finding of Facts and Statement of Overriding Consideration, and approval of the General Plan Amendment, Zoning Amendment (PA District and -H Overlay), Design Guidelines (including the Master PA Plan and Historic Conservation Plan), Vesting Tentative Map, Conditional Use Permit, Major Design Review for the Design Guidelines and Development Agreement to the City

Council for the Point Molate Mixed-Use Development Project, subject to conditions of approval

## **EXISTING CONDITIONS:**

The Project Site is bounded by the San Francisco Bay (Bay) to the west, open space parcels to the north and south, and the Chevron®-Richmond Refinery to the east, with the 480-foot hillsides of Potrero Ridge separating the refinery from the Project Site.

Approximately 136 acres of the approximately 412-acre Project Site are submerged in the Bay, leaving approximately 276 acres above water. The Project Site is approximately 1.5 miles north of Interstate 580 and the Richmond-San Rafael Bridge, and has direct freeway access via Stenmark Drive, a City-owned roadway. The Project Site also contains the Winehaven Historic District and the Point Molate Beach Park.

## **DISCUSSION:**

The Project entitlements include a General Plan Amendment, Zoning Amendment, Design Guidelines, Vesting Tentative Map, Development Agreement, Conditional Use Permit, and Major Design Review, described below. The Project will also include approval of a DDA, which shall be considered and approved by the City Council.

### **General Plan Amendment**

The Project includes a request for a General Plan Amendment (GPA) to change the land use classifications of the Project Site from Hillside Residential, Medium Density Residential, Parks and Recreation, Business/Light Industrial, and Open Space to a combination of Low-Density Residential, Medium Density Residential, Medium Intensity Mixed-Use (Community Nodes and Gateways), Parks and Recreation, and Open Space. In addition to the land use classification change, the applicant is proposing General Plan text amendments to:

- a. Amend the Medium Density Residential land use classification to allow a base density less than 10 du/ac with approval of a Planned Area District;
- b. Amend for the Medium Intensity Mixed-Use (Community Nodes and Gateways) land use classification to allow a floor area ratio (FAR) of up to 2.5 in the Winehaven District and heights greater than 55 feet as part of a Planned Area district. This land use classification would be allowed to include low-rise residential, residential-only, or commercial-only development with approval of a Planned Area District.
- c. Edits to the San Pablo Peninsula Area (CA-13) description to account for the proposed land use changes and development vision of the Project.
- d. There are also corresponding map changes to create consistency throughout the General Plan. Specifically, Figures 3.2, 3.4, 3.6 and Maps 3.2a, 3.2b, 3.15, and 12.6 are proposed to be amended to account for the Project.

The applicant asserts that the General Plan Amendments proposed are needed to ensure the successful redevelopment of the Project Site consistent with the Design Guidelines for the PA District.

Specifically, an increase in the FAR for the Winehaven District is needed to have flexibility to allow for an extra interior floor or complementary additions to ensure the financial feasibility of the adaptive reuse of Buildings 1 and 6. Overall, the height increases would also allow for a lower development footprint to preserve open space and view corridors, while also providing for architectural variety and make development economically viable. The GPA will allow for low-rise residential only development for the reuse of historic cottages in the Winehaven District if the market demand for commercial uses is not there at the time of its redevelopment. Several of the proposed map amendments and text amendments descriptions are needed to retain internal consistency with other elements of the General Plan resulting from the proposed land use classification changes.

The redevelopment of the Project Site would also contribute towards meeting the City's housing, economic development, brownfield redevelopment, historic preservation, and parks and open space goals including, but not limited to:

1. Developing a mixed-use development project that will have a positive fiscal impact on the City's annual budget by generating income to the City's general fund.
2. Making a significant contribution to the City's efforts to address its fair share of allocation of regional housing need, as projected by the Association of Bay Area Governments in its Regional Housing Need Plan.
3. Maximizing new residential opportunities to accommodate forecasted population growth within the City of Richmond.
4. Providing compact development patterns that preserve open space and addresses the topographic and biological constraints of the property as described in the General Plan.
5. The redevelopment of the Project Site will also contribute to the reuse of a former brownfield site for housing and economic development purposes.

### ***General Plan Consistency***

The Project is consistent with the General Plan vision, which identifies the San Pablo Peninsula Area as a Change Area district that would provide for a unique mix of uses, including commercial, residential and open space that serves the entire community

The following list highlights a selection of the General Plan goals and policies that the Project supports or accomplishes:

- The Project would encourage the sensitive integration of built and natural environment to develop a high quality experience. (Goal LU 4).
- The Project would meet future housing needs within City limits through redevelopment of a brownfield site with mixed-use construction offering a range of housing types. (Goal LU6, Policy LU6.1).
- The Project would provide a high standard of design and planning, and construction of new facilities, infrastructure and services. By furthering the remediation of the Project Site and implementing several sustainability measures, the Project will promote a planning approach

that supports a sustainable and healthy community, and reduces impacts on the environment. (Goal LU 6 & CN6).

- The Project achieves a higher standard for housing design, exceeds current green building standards, and pedestrian friendly design. (Policy LU 6.5 & Goal CF3).
- The Project has a planting and landscaping plan that is consistent with the San Francisco Bay Conservation and Development Commissions' Landscape Guide for the San Francisco Bay. (Goal PR3).
- Encourage the creation of tourist-serving amenities in key areas such as Point Molate promotes economic development in the City while providing opportunities for interpretation, education and recreations. (Policy LU 3.3).
- The Project expands the City's multi-modal circulation system by funding a portion of the Bay Trail, having complete streets, adding a bike lane on Stenmark between the freeway and the Project site, providing sidewalks along Stenmark, offering a commute shuttle, and providing water taxi service. (Goals CR 1, CR 2 & EC 2).
- The Project would fund the maintenance of its streets and circulation system and add safe routes for pedestrians and cyclists where none exist. (Goal CR 3).
- The Project would implement a transportation demand management program to reduce trips by 20 percent, include onsite stormwater capture and treatment facilities (LID features), and would include new, sustainable technology, including electric vehicle chargers and solar panels. (Goal CR 5).
- The Project would implement restoration efforts and manage invasive species on the Project Site by implementing a Vegetation Management Plan and Open Space Plan. (Goal CN 1.)
- The Project would conserve and retain approximately 70 percent of the Project Site as parks and open space, most of which would be natural open space with public trails, but also would enhance and enlarge the shoreline park. (Goal CN 2).
- The Project would create an appealing place to live and work with effective public safety, including constructing a new fire station and police substation. (Goal ED 1).
- The Project would provide numerous high-quality construction jobs that pay prevailing wage and would comply with the City's First Hire policy. (Goals ED 2 & ED 3).
- The Project would promote sustainable development patterns by creating a mixed-use community, retrofitting existing buildings, constructing streetscape improvements, parks, and other critical services such as a shuttle to the BART station. (Goal EC 4).

### **Planned Area (PA) District Rezone**

The applicant is proposing a zoning amendment to a PA District for the entire Project Site pursuant to Article 15.04.810 of the Richmond Municipal Code (RMC). The purpose of the PA District is to facilitate orderly development of larger sites consistent with the General Plan, where a mix of uses or character is desired that can best be achieved through an integrated development plan. In order to be considered for a Planned Area District Zoning Amendment, the site shall be a minimum of 2 acres. The subject site is 412 acres, with approximately 276 acres are above water. Of those 276 acres, development would be limited to 30% of the total acreage. The remainder 70 percent would be retained as open space or park area.

The proposed Design Guidelines, including the PA Master Plan, are attached as Exhibit E. Other

standards such as minimum lot size, setbacks, building height limits, and other development standards and similar regulations are in the PA District zoning text, attached as Exhibit C to the Design Guidelines. The PA District proposes eight subdistricts, including a subdistrict for the Winehaven Historic District, a subdistrict for the shoreline park, and a subdistrict for the hillside open space. Maximum building heights would vary by subdistrict and are further guides by the Design Guidelines, but would generally range from 35 feet to 105 feet depending on the sub district area within the Planned Area Plan. Therefore, the PA District is consistent with the General Plan height requirements discussed above, if the General Plan amendment is approved. The development standards that would guide future development of each subdistrict are in PA District section 1.060 and are further refined by the Design Guidelines (see Exhibit E).

The Planning Commission will make a recommendation to the City Council on the PA District Zoning Amendment; however, if the Planning Commission recommends denial then that decision is final, unless an appeal is filed to the City Council per Section 15.04.803.140 of the RMC .

### **H, Historic District Overlay and Historic Conservation Plan**

Article 15.04.303 *Historic Districts and Landmarks Overlay Districts* of the Richmond Municipal Code specifies the purpose and regulations that serve as Richmond’s Historic Preservation Ordinance and implement General Plan goals and policies related to historic preservation. When the H- and L-Overlay zones were created and assigned in 2016, Point Molate was marked as an L-overlay when it should’ve been identified as an –H overlay zone.

As part of the applications for the Project, the applicant is proposing to Rezone the Winehaven Historic District from an -L, Landmark, Overlay, to a -H, Historic District, Overlay with the adoption of a Historic Conservation Plan (Chapter 4 of the Design Guidelines [Exhibit E]) for the portions of the Project proposed within the Winehaven Historic District. The Historic Conservation Plan would be adopted by the resolution approving the Design Guidelines, separately from an Ordinance approving an -H, Historic District, Overlay.

### ***Historic Preservation Commission Recommendation***

Public hearings to consider the -H, Overlay and Historic Conservation Plan were held at the June 25 and July 14, 2020 Historic Preservation Commission (HPC) meetings. The HPC voted on June 25, 2020 to recommend approval of the –H, Overlay to the City Council and voted to recommend approval of the Historic Conservation Plan (Section 4 of the Design Guidelines) at their hearing on July 14, 2020.

### **Conditional Use Permit in the-S, Shoreline Overlay**

Per RMC Section 15.04.306.010, the purpose of the -S Shoreline Overlay District is to implement General Plan policies on shoreline protection and public access. More specifically, this overlay district is intended to ensure that any allowable development of the shoreline and tideland areas will protect water quality, wildlife habitats, and native or naturalized vegetation and, where appropriate, provide public access to and enjoyment of the shoreline.

The applicant would maintain the existing –S, Shoreline Overlay over the 100 foot shoreline band. In addition, the applicant is seeking a conditional use permit to allow for the extension and improvement of the shoreline park. The –S Overlay requires any use to obtain a conditional use permit to ensure appropriate protections for habitat, water quality, and public access.

### **Vesting Tentative Map**

The applicant is proposing to subdivide the existing site into approximately 44 development parcels, seven open space parcels, three right-of-way dedication parcels, two water parcels, and one utility parcels. The large development parcels would be further subdivided as part of future development proposals. A master association for all residential and commercial owners would be formed to perform and fund the ongoing management, accounting, operation, insurance, maintenance, repair and replacement of any and all private roadways, landscaping, recreation and open space, and other common areas and facilities within the Project, including common areas.

### ***Conformance with Zoning Ordinance***

The developed portion of the proposed subdivision would be located in a PA District, with an -H, Historic Overlay over the Winehaven Historic District and maintaining the existing –S, Shoreline Overlay for the 100-foot shoreline band. The PA District specifies the minimum lot size, if any, and development standards for future development of the resulting development parcels. The Design Guidelines provide additional guidance regarding the infrastructure improvements, permissible development, and landscaping. Future development projects would be required to be consistent with the PA District and substantially conform to the Design Guidelines, including the Master PA Plan. Therefore, the proposed subdivision is consistent with the Zoning Ordinance.

### ***Conformance with the Subdivision Ordinance and Subdivision Map Act***

A Tentative Subdivision Map is required for subdivisions resulting in five or more parcels. The project's Tentative Subdivision Map is shown in Exhibit F. The Vesting Tentative Subdivision Map has been reviewed for compliance with application provisions of the City's Subdivision Ordinance (RMC 15.04.700, et seq.) and Government Code section 66474, and determined that it satisfies the requirements of the Richmond Subdivision Ordinance and the Subdivision Map Act. A Vesting Tentative Subdivision Map is processed in the same manner as a tentative subdivision map; however, if approved, it confers a vested right to proceed with development in substantial compliance with ordinances, policies, and standards described in Government Code Section 66474.2., that were in effect at the time the application was deemed complete.

Conditions related to the Vesting Tentative Map and Design Guidelines are included in Exhibit H.

### **Major Design Review**

Pursuant to RMC section 15.04.810.030.B.2, a PA Plan is subject to Major Design Review by the Design Review Board (DRB) before the PA Plan is reviewed by the Planning Commission. As noted above, due to the complexity of the Project Site, the applicant submitted Design Guidelines that included a Master PA Plan rather than just a PA Plan. The Project's Design Guidelines are the

product of an iterative process, with the Project applicant engaging both the public and the DRB (through the City's design review process). Several working sessions with a subcommittee of the DRB were held for the purpose of providing the Project applicant with preliminary input on the Project design. Several study sessions were also held with the DRB to receive feedback from the DRB and the public on the proposed design of Project and the Design Guidelines, including the Master PA Plan.

### ***Design Review Board Recommendation***

Public hearings to consider the Project design were held on July 8 and July 22, 2020. At the conclusion of the July 22, 2020 hearing, the DRB unanimously recommended approval of the Design Guidelines with additional conditions on the Design Guidelines and also provided recommendations and conditions to the Planning Commission for the PA District zoning (see Exhibit H, Conditions #7-39).

The applicant is requesting modifications to DRB recommended conditions 10, 12, 13, and 38, and removal of conditions 16-25 due to the potential feasibility impacts and possible internal inconsistency with other provisions in Design Guidelines and SEIR. Staff is also recommending text edits to conditions 8, 9, 11, 25, 28-31, 33-36, and 39 to clarify the request by the DRB and to modify language into enforceable conditions of approval. Several conditions related to the Vesting Tentative Map have been also been modified or added to address the revised Tentative Map submitted after the DRB meeting.

### **Development Agreement**

As part of the Project, the City Council is considering a DDA between the Applicant and the City to transfer ownership of development parcels on the Project Site to the Applicant. In addition, the Applicant has proposed to enter into a statutory Development Agreement (DA) with the City for this Project. The DA allows the Applicant and the City to negotiate customized vested rights by contract for development of the Project Site. The DA proposes to "freeze" zoning, planning, and certain fees applicable for the Project Site, as well as the existing laws and ordinances for a specified period of time as vested rights for the Project Site. In exchange for the vested rights, the Applicant agrees to provide additional financial and other concessions and public benefits beyond the Project's obligations under the conditions of approval, mitigation measures under CEQA, and the Mitigation Fee Act, etc.. A draft DA is attached as Exhibit G of this Staff Report.

Key deal points of the draft DA are as follows:

1. **Term:** The draft DA includes a 15-year term with an automatic 5-year extension if the Applicant completes the construction of Phase 1 of the Project within 10 years. The Applicant can request additional extension of the DA, which is subject to further discretionary approval by the City. See Section 1.3.2 of the draft DA. The Parties rights and obligations may also be extended under the draft DA's force majeure clause in Section 11.2.
2. **Vested Elements:** With approval of the entitlements and execution of the DA, the

Applicant will become vested in the permitted uses and development capacities set forth in the PA District, as well as Applicable Rules and Project Approvals (among other vested elements), all subject to the conditions, terms, restrictions, and requirements imposed in those approvals and for subsequent discretionary actions.

3. **Subsequent Approvals:** This Project includes subsequent discretionary approvals (e.g., small-lot vesting tentative subdivision maps, development plan review, certificate of appropriateness, etc. outlined in Section 1.4.9 of the draft DA). Section 3.5 of the draft DA sets forth the scope of review and procedures of such subsequent approvals for the Project.
4. **Public Benefits:** Sections 2.1 and 2.2 of the Draft DA include a list of public benefits that the Applicant is required to provide, many of which already appear in the proposed DDA. This includes constructing a new joint fire station/police substation; providing a variety of housing type, including 67 onsite affordable housing units; construction and/or contribution of funds toward the construction of the Bay Trail within the Project Site, as well as from I-580 to the Project Site boundary; construction of trails through hillside open space; rehabilitation of all of the contributing historic buildings in the Winehaven District; payment of prevailing wage to construction workers; environmental remediation of the Project Site; and maintenance of the open spaces and parks, which would be open to the public. The draft DA includes additional public benefits such as the formation of the Master HOA, pre-closing services, park enhancements, unit ratio breakdown, funding for civil and cultural uses, and stormwater facilities maintenance.
5. **Future Rules and Standards:** The draft DA limits the City's discretion to adopt and apply future rules and standards to the Project to certain extent. Section 3.4 of the draft DA addresses which future rules and standards can apply to the Project and Section 3.6.5 addresses the conditions applicable to future approvals.
6. **Impact Fees:** The draft DA freezes impact fees and assessments subject to annual increases based on the Employment Cost Index (ECI) escalator. However, the draft DA authorizes the City to reassess and apply new fees and assessments to later phase vertical improvements after 7 years following the commencement of construction of the First Site Improvement Phase. See Section 3.6.3 and Exhibit D of the draft DA.
7. **Fee Credit:** In exchange for building certain public infrastructure improvements as part of the Project, the Applicant is seeking certain fee credits (subject to the City's Fee Credit Policy) for common infrastructure and improvements constructed by the developers (including Police, Fire, and Parks). Section 3.6.4 of the draft DA addresses these fee credits for the Project.
8. **Community Facilities District ("CFD"):** The draft DA will set forth the base terms for the establishment one or more Mello Roos CFDs to finance the construction of certain public improvements along with the maintenance of facilities and provision of

services. Section 4.5 of the draft DA includes key provisions governing the establishment and operation of the CFD.

### **PUBLIC NOTIFICATION:**

Public notification consisted of publishing a legal notice in the local newspaper and notification by mail of owners within a 300-foot radius of the subject property. Notices were also sent to all commenting agencies and the list-serve (notify-me list) for the project. A notice was also posted at the Point Molate Beach Park and at the Admin Building located at 2100 Stenmark Drive.

### **NEIGHBORHOOD COUNCIL:**

The Project is not located within the boundaries of a neighborhood council. Notifications related to the project were sent to the Point Richmond Neighborhood Council (PRNC), given their proximity to the Project Site. No comments regarding the proposed project have been received by the PRNC.

### **ENVIRONMENTAL REVIEW:**

On July 12, 2019, the City of Richmond (City) circulated a Notice of Preparation (NOP) to the public, local, State, and federal agencies, and other known interested parties for a 30-day public and agency review period, in accordance with the California Environmental Quality Act (“CEQA”) Guidelines (14 California Code of Regulations [CCR] section 15000 et seq. “CEQA Guidelines”) Section 15802. The purpose of the NOP was to provide notification that an SEIR for the Modified Project was being prepared, and to solicit public and agency input on the scope and content of the document. Additionally, the NOP was sent to the State Clearinghouse.

Pursuant to CEQA Guidelines Section 15082, the City held a scoping meeting for the SEIR on July 29, 2019 at the City Council Chambers. Agencies and members of the public were invited to attend and provide input on the scope of the SEIR. Comments from agencies and the public provided at the scoping meeting and in written comments submitted in response to the NOP are included within Draft SEIR, Appendix B. Significant issues raised during the scoping process are summarized in Section 1.4.3 of the Draft SEIR.

The Draft SEIR was made available for public review and distributed to applicable local and state agencies for a period beginning on February 21, 2020 and closing on April 30, 2020. This public comment period was initially set to end on April 6, 2020. A public meeting was scheduled on March 19, 2020 to describe the Modified Project and the environmental review process and to receive written and oral comments on the Draft SEIR.

However, on March 17, 2020, the Contra Costa County Health Department issued a shelter-in-place public health order in response to the unique and public safety challenge presented by COVID-19. Under CEQA Guidelines section 15202(a), CEQA does not require formal hearings at any stage of the environmental review process. Public comments may be restricted to written communication. Thus, in response to the public safety challenge presented by COVID-19 and public health orders limiting public gatherings, the City issued an updated Notice of Availability on

March 17 to cancel the optional in-person meeting, and to extend the comment period by 10 days to April 16, 2020. The City posted a video presentation<sup>1</sup> of the Modified Project and Draft SEIR findings on its website; this presentation contained the same information that would have been presented in the in-person meeting. The City also set up a hotline for submitting oral comments that could be transcribed and included in the Final SEIR.

On April 15, 2020, in response to public comments, the City issued another updated Notice of Availability to further extend the comment period by another two weeks until April 30, 2020, allowing the public and agencies a total of 70 days to submit comments. Accordingly, the City exercised its discretion under the law to cancel the public meeting to protect public health and safety, and provided a lengthier comment period than required by CEQA.

The Response to Comments document was published on July 24, 2020. The Response to Comments document contains the comments received on the Draft SEIR and responses to all timely submitted comments raising significant environmental issues regarding the Draft SEIR.

### ***Review of Comments on the Draft SEIR***

None of the comments received on the Draft SEIR constitute new information that warrants recirculation of the Draft SEIR. Comments received do not identify new significant impacts or result in a substantial increase in the severity of impacts, nor do the comments include feasible project alternatives or mitigation measures that are considerably different from those analyzed in the Draft SEIR that the applicant has refused to implement. In addition, the Draft SEIR was not so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. Therefore, recirculation is not required pursuant to Section 15088.5(a) of the CEQA Guidelines.

### ***Summary of Project Description Refinements Since Publication of the Draft SEIR***

This section presents a description of minor refinements made to the Project since publication of the Draft SEIR.

### **Project Description**

Since publication of the Draft SEIR on February 21, 2020 and the public review period, the Applicant has received input from the City's DRB, Historic Preservation Commission, other City departments, regulatory agencies, and the public regarding the design of the Project analyzed in the Draft SEIR (Modified Project).

In response to comments received, minor changes were made to the Modified Project since the circulation of the Draft SEIR. Attachment 7 of the Response to Comments document describes the project that was submitted through formal application to the City for approval, referred to herein as

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<sup>1</sup> Presentation is available for viewing at [http://richmond.granicus.com/MediaPlayer.php?publish\\_id=d92014a9-7055-11ea-99b9-0050569183fa](http://richmond.granicus.com/MediaPlayer.php?publish_id=d92014a9-7055-11ea-99b9-0050569183fa)

the “Refined Project” and provides an explanation of how the environmental impacts of the Refined Project are within or less significant than those identified in the Draft SEIR for the Modified Project.

Because the City is considering the Project’s high-level approvals at this time, including the General Plan amendment, zoning, Design Guidelines, and the large-lot subdivision map, the Draft SEIR for the Project analyzed a range of development Options (Option 1 and Option 2) that would be feasible under the proposed entitlements, in order to capture the full breadth of possible environmental impacts of the Modified Project. Option 1 is a residential-heavy development land use scenario and Option 2 is a commercial-heavy land use scenario. Section 3.2.1 of the Draft SEIR provides a detailed description of Option 1 and Option 2.

The Refined Project is substantially similar to the Modified Project, and still includes at least 1,260 new residences, rehabilitation of the historic buildings, and development of an additional 250,000 square feet in the Winehaven Historic District. The Refined Project includes land uses that are entirely within the mix and envelope of land uses and environmental impacts analyzed in the Draft SEIR. Some of the refinements made to the Modified Project in the Refined Project include:

- DRB members and the public expressed concern regarding the amount of grading considered for the Modified Project. The Refined Project proposes to reduce the area of the Project Site being disturbed through grading, particularly in the hillside area.
- Several public and DRB members expressed the need to maximize public shoreline access on the Project Site. Accordingly, the Refined Project pulls back development from the shoreline area in comparison to the Modified Project, to allow greater shoreline access for the public.
- Several DRB members requested more multi-family units and fewer single-family units to reduce the development footprint. Accordingly, the Refined Project includes more multi-family units and fewer single-family units.
- Several Draft SEIR commenters raised concern regarding the lack of on-site amenities to serve future residents of the Project’s residential development and Mitigation Measure 4.13-6 requires at least three onsite amenities. To address commenters’ concern and the mitigation measure, the Refined Project includes an additional 15,000 square feet of retail/restaurant uses that would be small scale, neighborhood-level, locally serving amenities.
- As described in Attachment 18 of the Response to Comments Document, Wastewater Treatment Variant B described in the Draft SEIR was reevaluated and adjusted to allow for removal of the Marine Street Lift Station from the project design. As illustrated in Attachment 18, the refined route would maintain the majority of the original route while eliminating the branch of pipeline along Marine Street southwest of Western Drive. As with the Modified Project, the sewer force main included in Wastewater Treatment Variant B under the Refined Project would be located within the public right of way to the point of connection on Tewksbury Road. However, the removal of the lift station on Marine Street from the project does not change the environmental analysis since additional flow at a point downstream on Tewksbury Avenue had also been analyzed, and the flow of volume is to remain the same. Accordingly, the Draft SEIR was revised to remove mention of the lift station associated with Wastewater Treatment Variant B of the Modified Project, and these revisions do not affect

the impact conclusions in the Draft SEIR.

- In response to the comments from the Historic Preservation Commissioners, the development proposal within the Winehaven District has been refined as part of the Refined Project to ensure protection of existing scenic vistas.

### ***Results of Analyses Related to Refinements to Project Description***

Because the Draft SEIR included environmental analysis in each issue area for the development option that would result in greater impacts in that issue area, and the Refined Project is a combination of those ranges of development, the Refined Project is fully within the scope of the analysis provided in the Draft SEIR. Therefore, the City has concluded that the environmental impacts of the Refined Project fall within the scope of environmental impacts analyzed, and the level of impacts are equal to or less significant than those identified in the Draft SEIR for the Modified Project, and all mitigation measures identified in the Draft SEIR for the Modified Project would be applicable for the Refined Project. An analysis of the environmental impacts of the Refined Project is provided in Attachment 7 of the Response to Comments Document.

### ***Summary of Revisions to the Draft SEIR***

Revisions to the Draft SEIR include both (1) revisions made in response to comments on the Draft SEIR as well as (2) staff-initiated text changes to correct inconsistencies, to add information or clarification, where appropriate, and to provide updated information where applicable. None of the revisions or corrections substantially change the analysis and conclusions presented in the Draft SEIR. Revisions to the Draft SEIR, which are detailed in the Response to Comments document, were summarized in the Planning Commission Agenda Report dated August 6, 2020.

### ***Summary of Comments Received on the Draft SEIR***

Agencies, tribes, organizations, and individuals submitted written comments on the Draft SEIR during the public review period. Two “Form” letters (identical letters but sent by multiple individuals) were submitted. Copies of the comments received on the Draft SEIR during the review period related to environmental effects of the Point Molate Mixed-Use Development Project (Modified Project) were included in the Response to Comments document. CEQA Guidelines indicate that a final SEIR should address comments on a draft SEIR. Therefore, responses to substantive comments were provided in the Response to Comments document. Comments that state opinions about the overall merit of the Modified Project are included in the City of Richmond’s (City) public record and will be taken into account by decision-makers (Richmond City Council) when they consider the Modified Project, and although not required by CEQA, are responded to generally in this Response to Comments document. Master responses were prepared for topics that were submitted by multiple commenters.

### ***Revisions Needed for the Final SEIR***

Since publication of the Response to Comments document on July 24, 2020 and the SEIR presentation to the Planning Commission on August 6, 2020, the City has continued to receive public comments on the SEIR document (the comments are included as Attachment 3 to this Staff

Report). The City's review is ongoing; however, based on the review of the comments thus far, the following revisions and changes (mostly editorial) have been identified for incorporation in the Final SEIR:

- Mitigation measures have been revised in the MMRP to remove any inconsistencies with changes made elsewhere in the SEIR document between Draft and Final SEIR.
- Minor formatting changes (e.g., remove extra spaces), minor typographical errors revised (deletion of an extra "and"), and removal of redundant language (e.g., remove duplicative text in Mitigation Measure 4.13-18) in the MMRP.
- Add citations in footer and delete in-text references of citations in MMRP.
- The City recently determined that a portion of the local offset project (the co-generation plant) identified in the Greenhouse Gas Reduction Plan (GGRP) included in Attachment 8 of the Response to Comment document has already been funded and partially constructed. Thus, the GHG reduction from only the heat capture portion of the offset project will be funded by the Applicant. The GGRP and the SEIR will be revised to correct the greenhouse gas emissions reduction from the local offset project from 1,409 MT CO<sub>2</sub>e per year to 595 MT CO<sub>2</sub>e per year.
- Certain public comments requested use of renewable diesel in construction equipment and use of LED lights for streetlights, traffic lights and lighting in public areas. But the availability of renewable diesel cannot be guaranteed during the entire period of construction. In response, the Applicant will revise the GGRP to require the use of renewable diesel, if available; however, no GHG reductions will be taken in the GGRP for including this measure. The installation of streetlights, public area lighting and traffic lights in the City is under the purview of the Public Works Department. As such, the lighting-related energy consumption was not quantified for the Project's GHG emissions and no additional GHG emission reductions can be achieved from these measures. In response to the comments, the GGRP will nevertheless incorporate the following additional measures: use of LED traffic lights, public area lighting and street lights that will be installed by the Applicant.
- Revise references to homeowners association and commercial association in mitigation measures to refer to "homeowners association, commercial association and/or Master association," to ensure a responsible party for those mitigation measures.
- City staff has received input from the Confederated Villages of Lisjan (Ohlone) tribe regarding the measures identified in the Cultural Resources Data Recovery Plan (CRDRP) prepared pursuant to Mitigation Measure 4.4-4. The consultation with the tribe is still ongoing on the CRDRP. The input from the tribe will be included in the CRDRP upon conclusion of the consultation.

Additional minor revisions may be required as the review of public comments received after August 6, 2020 is completed. However, none of the revisions/changes identified above or comments reviewed by staff so far identify any new significant impacts or result in a substantial increase in the severity of impacts, nor do the revisions/changes include feasible project alternatives or mitigation measures that are considerably different from those analyzed in the Draft SEIR that the applicant has refused to implement. Therefore, the revisions/changes are not triggering recirculation pursuant to Section 15088.5(a) of the CEQA Guidelines.

## **GENERAL PLAN AMENDMENT, ZONING AMENDMENT, DEVELOPMENT AGREEMENT, VESTING TENTATIVE MAP, CONDITIONAL USE PERMIT, AND DESIGN REVIEW FINDINGS:**

The Planning Commission must adopt certain findings in recommending approval of the proposed General Plan Amendment, Zoning Amendment to Planning Area District and -H, Overlay, Design Guidelines (including the Master Planned Area Plan and Historic Conservation Plan), Vesting Tentative Map, Conditional Use Permit for the shoreline park in the existing S-Overlay area, Development Agreement, and Major Design Review Permit for the Design Guidelines. Statements of fact for supporting the required findings are contained in the draft Resolution No. 20-12, Attachment 2. The recommended conditions of approval, including those of the DRB, as modified by staff (attached as Exhibit H) for the Project are also contained in draft Resolution No. 20-12.

## **FISCAL AND ECONOMIC ANALYSIS OF THE PROJECT**

Both the Fiscal and Economic Impact Analysis of the Project prepared by the Applicant's consultant, EPS, and the peer review of this analysis by the City's consultant, BAE Urban Economics, are available for public review on the City's website at: <http://www.ci.richmond.ca.us/3757/Point-Molate-Mixed-Use-Project>.

## **CONCLUSION:**

The proposed General Plan Amendments and Zoning Amendments would enable the successful redevelopment of the Point Molate Site, while providing for the enhancement of approximately 70% of the Project Site as open space, and a mixed-use development that would provide a new economic base for the City, while providing much needed housing and jobs for the City and Bay Area region.

## **DOCUMENTS ATTACHED:**

- Attachment 1: Final Subsequent Environmental Impact Report, consisting of the Draft Subsequent Environmental Impact Report and Response to Comments
- Attachment 2: Draft Resolution 20-12 recommending certification of the Final SEIR, and approval of the General Plan Amendment, Zoning Amendment, Vesting Tentative Map, Conditional Use Permit, and Design Review, subject to conditions of approval.
  
- Exhibit A: CEQA Findings and Statement of Overriding Considerations
- Exhibit B: Mitigation Monitoring and Reporting Program
- Exhibit C: General Plan Amendment
- Exhibit D: Zoning Amendment
- Exhibit E: Design Guidelines with Master PA Plan, Historic Conservation Plan, and other sections
- Exhibit F: Vesting Tentative Map
- Exhibit G: Development Agreement
- Exhibit H: Conditions of Approval

Attachment 3: Public Comments received on SEIR since August 6 Planning Commission Meeting

LV/JA

cc: Winehaven Legacy LLC  
Orton Development  
RNCC  
Project List-serv