

EXHIBIT H - CONDITIONS OF APPROVAL

1. Lot Parcelization

- a. The Vesting Tentative Map indicates the locations of all public easements necessary to provide utility service, access, or drainage for the proposed parcels as known at the time of map preparation. However, the project will depict the ultimate easement locations on the final map or other eligible instrument.

2. Storm Water Management

- a. The project shall implement a post project storm water quality control consistent with the Municipal Regional Permit and the City of Richmond's requirements. This shall include the following features:
 - i. All new roadways, trails, and hardscape constructed to support the initial subdivision of land shall incorporate bioretention facilities and/or other low impact development storm drainage strategies. To the maximum extent possible, these features shall be located near the source of runoff and integrated into the streetscape.
 - ii. Future private parcels that are to be subdivided and developed for residential and commercial use shall include low impact development features such as bioretention, pervious pavements, green roofs, and/or other low impact develop storm drainage strategies. These features shall be located throughout the development area and located as close as possible to the source of runoff.
 - iii. Historical structures and their respective parcels shall integrate low impact development features as previously described. These features shall be designed to protect the structural integrity of the structures and their foundations.
 - iv. The rehabilitation of Stenmark Drive between the development and Interstate 580 may require storm water quality elements. The project shall implement these features to the satisfaction of the City Engineer.
- b. No storm water quality facilities shall be allowed within the existing Point Molate Beach Park to serve stormwater runoff from a source located outside of the Beach Park's watershed.
- c. Stormwater facilities to serve stormwater runoff from a source outside of the Shoreline Park watershed shall be allowed within the Shoreline Park expansion of the Point Molate Beach Park, including the Winehaven Historic district, where facilities may be allowed to treat stormwater run-off from buildings.
- d. The development shall properly manage stormwater runoff originating from east of the development. To the extent feasible, the development shall incorporate naturalized drainage channels to direct and treat stormwater runoff.

- e. Culverts shall be of sufficient size to perform hydraulically similar to a bridge in a frequent storm event; where feasible, culverts shall be sized to allow for wildlife crossing. The final design of these features shall be reviewed and approved by the Community Development Director and City Engineer.

3. Earthwork

- a. To the extent feasible, the development shall grade the site to complement the existing topography. The development shall complete the mass grading necessary to manage drainage within the parcels and conform to the adjacent public streets. The site grading shall be developed to minimize the amount of soil exported or imported to the site. For soil remediation, the project may import and/ or export soil as necessary to accomplish the cleanup.
- b. Grading on parcels with historic buildings, if required, shall manage drainage per the California Building Code and not impose additional loads on the structures. The proposed grading plan shall be completed to the satisfaction of the Community Development Director and Building Official.
- c. Should the development export soil by barge, the applicant shall secure all necessary approvals from Local, State, and Federal regulatory agencies prior to commencing the activity. In addition, the project shall ensure the existing dock has adequate capacity to carry the additional load.
- d. Any grading activity that occurs prior to development of the parcels shall implement best management practices to minimize erosion and sediment release to the Bay. Additionally, the applicant shall install temporary storm drainage collection infrastructure to collect and convey runoff.

4. Transportation

- a. The project shall improve Stenmark Drive from the project site to Interstate 580. There are two segments of Stenmark Drive that shall receive improvement:
 - i. Within the project site, the project shall provide vehicle travel lanes, on street parking, curbs and gutters, sidewalks, and bicycle lanes that comply to current design standards, where feasible. The street shall include amenities such as street lighting and landscaping. Any deviations from current design standards shall be subject to review and approval by the City Engineer.
 - ii. From the development area south to Interstate 580, the development shall update the roadway to comply with current design standards with reference to lane and shoulder width; drainage; horizontal and vertical sight distance; and slope stability. Stenmark Drive shall include street lighting, striping, signage, and safety devices such as metal beam guardrails. Furthermore, the development shall integrate Class II bicycle facilities within this segment, where feasible, to the satisfaction of the City Engineer.

- b. The project shall complete upgrades to intersections along Stenmark Drive that could include turn lanes and crosswalks to enter driveways and side streets to the satisfaction of the City Engineer.
- c. The project shall complete all offsite street improvements on streets controlled by the City identified in the traffic study that are required to mitigate the project's impact to the satisfaction of the City Engineer.
- d. The project shall rehabilitate and/ or construct street pavement along Stenmark Drive from Interstate 580 to the northerly limit providing for a design life of at least 20 years based upon a Traffic Index as approved by the City Engineer.
- e. The slopes adjacent to Stenmark Drive are subject to erosion. The project shall stabilize these slopes. In addition, the project shall install drainage including ditches, pipes, culverts, and related appurtenances to prevent erosion and inundation of the roadway. These improvements shall be completed to the satisfaction of the City Engineer.
- f. As segments of Stenmark Drive are located within private property, the project shall secure an easement of sufficient width and length to support the improvements previously described.
- g. The project shall re-align Dutra Quarry Road to provide adequate sight distance, enhance bicycle safety, and allow vehicle maneuvers.

5. Utilities

- a. The project shall underground all overhead utilities within the project area and along Stenmark Drive to Interstate 580.
- b. The project shall secure a permanent right to enter with private property owners in order to maintain the force main. This shall include making all improvements necessary to facilitate equipment access to manholes and related appurtenances located on private property. The project shall install a force main of sufficient size and capacity to serve the development along the alignment illustrated in the Vesting Tentative Map. The project shall complete a geotechnical assessment to confirm that the force main can be installed by trenchless methods below Interstate 580. In addition, the project shall adjust the alignment as needed to accommodate geologic, topographic, property ownership, and/ or other constraints encountered. The project's preliminary design shall be reviewed and approved by the City Engineer prior to finalizing the construction document. The applicant shall secure an easement of no less than 15 feet in width through all private properties along the force main's alignment.
- c. If the project includes an onsite wastewater treatment plant or if at the time of wastewater infrastructure final design East Bay Municipal Utility District has recycled water capabilities to serve the project, the project shall include recycled water piping within Stenmark Drive and roadways within

the development area, to the extent feasible as determined by the City Engineer.

- d. The project shall construct access roadway and related appurtenances to support the new East Bay Municipal Utility District reservoirs.
- e. All proposed equipment required by the East Bay Municipal Utility District shall not be located within the Shoreline Park parcel. To the extent feasible, this equipment shall be located below ground. All above ground equipment shall be screened and all structures shall be designed in an architectural style complimentary to the development to the extent permitted by East Bay Municipal Utility District.
- f. The sanitary sewer pump station shall be designed and constructed with high quality components, contain multiple pumps, emergency power generation, and telemetry for remote monitoring. The final design shall be completed to the satisfaction of the City Engineer. The applicant shall submit a basis of design report that indicates performance requirements and general pump station configuration for review and approval by the City Engineer prior to finalizing design.
- g. The application shall rehabilitate sanitary sewers downstream of the force main as required to accommodate project flows as determined by the City Engineer.
- h. The application shall complete a video inspection of the condition of all storm drain pipelines that the project proposes to connect to including outfalls to the Bay. The inspection shall note defects and provide recommendations for repair. All storm drainage outfalls shall be rehabilitated to the satisfaction of the City Engineer.
- i. Along the force main's alignment, the project shall install two 2 inch in diameter conduits for fiber optic cable. At intervals of no less than 800 feet and as directed by the City Engineer, the project shall install access boxes of at least 30 inches wide by 48 inches long. Each conduit shall have a pull rope installed.

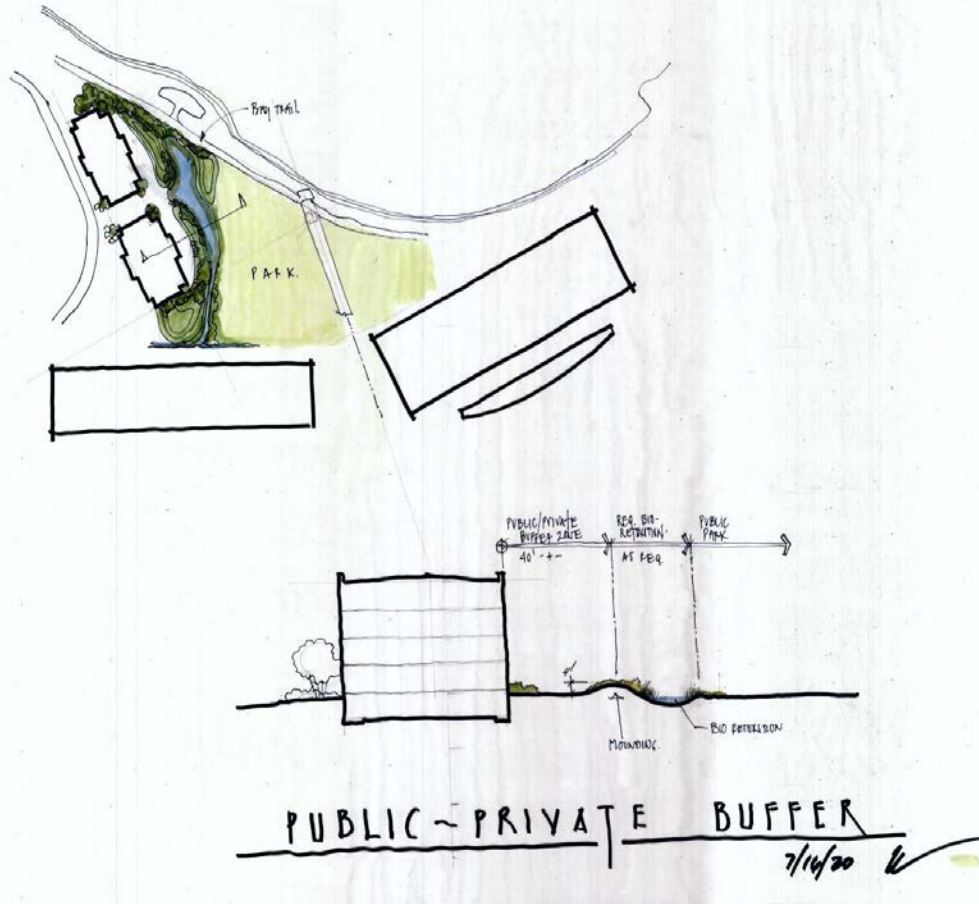
6. Bay Trail

- a. The onsite Bay Trail and Shoreline Park facilities shall be substantially constructed as part of the initial development phase prior to issuance of the first certificate of occupancy.

DRB Recommended Conditions of Approval:

7. **Supplemental information** that was attached to the DRB on 7-21 via email from Staff shall be adopted into the Design Guidelines including option B of the shoreline park.
8. **Public private buffer zone:** When a public park ~~or public space~~ interfaces with a private residential zone, a buffer zone shall be established at the ground floor. The dimension of this zone will vary with the site but at no time shall it be less

than 20 feet. This buffer can be inclusive of required setbacks. A visual break consisting of landscaped berms or dense landscaping or landscape wall shall be considered. See illustrations example below.



9. COA # 9 **Page 2-23 Section A** is incorrect as depicted in the July 17, 2020 Preliminary Design Guidelines and shall be corrected in the final Design Guidelines. and shows a fill bank that shall not occur - This section is misleading and is NOT the intent of the developer. Section shall be corrected.
10. COA # 10 **pages 2-27, 2-21, 2-19, etc,** continue to show the Bay Trail on top of a proposed wildlife sanctuary bounded by the remaining sections of original rock that was part of the point before it was graded flat. The Bay Trail shall or any public trail shall not encroach on this wildlife area the original rock at the Point unless they comply with mitigation measure protecting nesting birds, including nesting osprey (e.g., Mitigation Measures 4.3-5 and 4.3.-7 for the Project and BIO-2 for the Bay Trail).

11. **Section #7 correction page 2-50** – Cross section shall be revised to ~~delete~~ access drive between Stenmark and the east side of the multi-family building. ~~building face and move building face to a setback of 10 feet from the Pedestrian Trail.~~

12. **Page 2-52 Alley section.** Revise or remove alley section on page 2-52. Alleys shall have features that ~~This section is not appropriate for Point Molate – see supplemental section for clarification. Board is open to other reasonable alternatives that achieve the same or similar result. The intent is to mitigate high vertical walls that create an unsightly and noisy alley, such as with trees and other plantings, building breaks, or building projections on the facade. There needs to be enough room to have a tree grow.~~

13. **2.14 Block Structure, building Placement and allowable height - page 2-53**

Add: Eco - district higher density alternative:

~~In an effort to limit the mass grading that will be needed to allow a “Block-Structured Grid community” that is proposed, a~~ higher density building and diverse mix of unit types ~~typology~~ consisting of view-oriented flats ~~and~~ townhomes that are organized around the natural topography and naturalized riparian corridors is ~~the~~ a preferred community pattern. This ~~type of~~ pattern ~~would~~ may integrate community gardens and internal views of riparian and wildlife corridors to the extent feasible into a ~~more~~ holistic and unique Point Molate experience. ~~Another community objective is to encourage a diverse mix of unit types that would allow all income groups to be able to live in this area.~~

14. **Page 2-64 Stormwater system:** The language of condition # 2 in the staff report supersedes this section. This intent is to naturalize the existing patterns.

15. **Page 2-67 Include historic preservation** as a side note in phase 1 - We understand that phase one is for infrastructure but want to make sure that the preservation component is part of a phase one build out.

*Conditions # 16 -25 should also be reflected in the **PM-PAD zoning text and in the Design Guidelines, as appropriate, as an eco-district alternative.** These conditions are intended to help shift ~~these rather restrictive and the proposed clustered development standards~~ compacted building set-back standards into a slightly more relaxed pattern language that ~~wants to~~ can respond to a more natural and open environment. Design Guidelines should add that the eco-district alternative is preferred, but clustered development is permitted if clustering would equally or better*

achieve overall design goals, including, open space access, scenic views, and contiguous open space.

16. COA # 16 **page 3-5**

Max lot coverage from 70% to 65%

Max Building height: 28' for 2 story and 35' for three story

Front yard setback from 5 feet to 10 feet - 5 foot setback for porches

Front garage setback from 5 feet to 10 feet.

17. COA #17 **3-7**

Max lot coverage from 70% to 65%

Max Building height: 28' for 2 story and 35' for three story

Front yard setback from 5 feet to 10 feet - 5 foot setback for porches

**Alley setback - see diagram on supplemental - need tree pockets

**An alternative alley design can be proposed that achieves the goal of breaking long wall of garages with landscape and plantings.

18. Page **3-9**

Max lot coverage from 65% to 60%

Max Building height: 28' for 2 story and 35' for three story

Front yard setback from 5 feet to 10 feet - 5 foot setback for porches

Front garage setback from 5 feet to 10 feet

Rear yard setback from 10' to 15'

19. Page **3-11**

Max lot coverage from 80% to 75%

Max Building height: 28 ' for 2 story and 35' for three story

Front yard setback from 5 feet to 10 feet - 5 foot setback for porches

Front garage setback from 5 feet to

10 feet. Rear yard setback from 10'

to 15'

**Alley setback - See Diagram on supplemental - need tree pockets

**An alternative alley design can be proposed that achieve the goal of breaking long wall of garages with landscape and plantings.

20. Page **3-13**

Max lot coverage from 80% to 75%

Max Building height: 28' for 2 story and 35' for three story

Front yard setback from 5 feet to 10 feet - 5 foot setback for porches

Front garage setback from 5 feet to

10 feet. Rear yard setback from 10'

to 15'

21. Page **3-15**

Max lot coverage from 80% to 75%

Max Building height: 28' for 2 story and 35' for three story

Front yard setback from 5 feet to 10 feet - 5 foot setback for porches

Front garage setback from 5 feet to 10 feet.

**Alley setback - See Diagram on supplemental - need tree pockets

**An alternative alley design can be proposed that achieve the goal of breaking long wall of garages with landscape and plantings.

22. Page **3-17**

Where abutting a residential District, the setback shall be increased from 10' to be a min. of 15'

23. Page **3-19**

Step-backs should be considered in proportion to the overall massing of the buildings Step-backs of the building should be expressed as should rather than shall. In this way, the overall architectural response can be evaluated by the DRB at the time of development plan review and step-backs can be evaluated accordingly shall be revised to be:

- Promenade floors 3 and above should be step-back ~~instead of 4 and above.~~
- At the Point: floors 3 and above should be step-back ~~instead of 5- and above - see diagrams in the supplemental - subject to DR- consideration at the time of design.~~

24. Page **3-25**

Delete all glass facades in bottom right. Not appropriate. Too reflective on the water.

25. Page **3-33 - Elements requiring screening:**

All ground mounted AC or HEAT PUMP mechanical equipment must be totally screened from view and screening must be constructed out of sturdy sound attenuating material that is complementary to the adjacent exterior material. AC and Heat Pump equipment shall not be located directly ~~and not adjacent to either a bedroom window or located in the front yard.~~

26. Page **5-23 trail heads**

Add a continuation of the trail above the Point on the bluff to connect to the ridge so it is not a dead end.

27. Page **5-23 trail heads**

Alternative B park plan in the supplemental Design Guidelines submittal supersedes this park layout.

28. Page 5-27

The extra Large monument / gateway sign depicted in the illustration is discouraged so ~~it shall~~ should be removed from the Design Guidelines.

29. Page 5-37

This page shall be revised to correspond to the revised vesting tentative map dated August 12, 2020. ~~Outfall and bioretention diagrams are obsolete. See COA #2~~

30. Page 5-42 Invasive species

It shall be the responsibility of ~~Winehaven Legacy LLC~~ the project and not the Parks department of the City of Richmond to remove the Eucalyptus trees ~~west~~east of Stenmark Drive and re-plant per the SEIR's ~~recommendations~~ mitigation measure.

31. Page 5-49 exterior utilities:

All ground mounted AC or HEAT PUMP mechanical equipment must be totally screened from view and screening must be constructed out of sturdy sound attenuating material that is complementary to the adjacent exterior material. AC and Heat Pump equipment shall not be located and not directly adjacent to other bedroom windows or located in the front yard. AC or HEAT PUMP equipment cannot be "screened with plant material." Exterior utilities shall be accessible to service (not service vehicles per se).

32. ~~This COA is intended to supersede the wording of the open space formula that is now in the PA-PAD zoning. The open space map and parking program for the open space presented to the Planning Commission is intended to supersede the wording of the open space formula that is now in the PA-PAD zoning.~~

~~**Open space definitions and bay trail improvements:**~~

~~Phasing: "The Bay Trail: and Shoreline Park facilities shall be substantially constructed as part of the initial development phase prior to issuance of the first condition of occupancy."~~

~~Area Map: For purposes of informing the public and city staff, a development area / open space area graphic map shall be established to clearly show the planning commission, in graphic form, which spaces are deemed open space and which areas are deemed developed. The public and city staff can then clearly see and calculate open space and developed area and clearly see if the open space is indeed within a developed area.~~

~~Parking for Open Space and Shoreline Park Lands: At least 250 public parking spaces for motor vehicles shall be considered for public access to Shoreline Park and Open Space lands - the final count shall be presented at the PC.~~

33. When naming the different neighborhood in the Project area for marketing purposes do not use Change naming 'The Point' (downtown Point Richmond Apt Building) and or 'The Village' (Richmond Village Apts) because these names have been used to refer to other places/developments in the City. these are confusing and misleading.
34. **Wayfinding/Signage** The project shall include Well-designed signage that integrates into the environment well and is in harmony with the design guidelines to help people find where they are going and to not get lost. And eEvacuation plan signage for safety (as this is some of the closest housing next to the refinery we've seen) shall be provided at distinct location within the project.
35. **Color Palette & Materials** - Colors should be muted and blend into the hillside seamlessly. ~~They need to work well with possibility of diesel particulate coating from marine & industry (easy to clean).~~ Materials shall be easy to clean due to the project's location near the Bay and industrial uses.
36. **Natural planting** - The development should emphasize natural/native plantings and limit turf. ~~have less green lawn areas and more natural/native plantings.~~
37. Page 1.6.2 under the community design guidelines section please include the words
"housing for multiple income levels are desired."
38. The Native American cultural history on the site should be incorporated into an interpretive center and acknowledged with interpretive signage. The Project shall comply with SEIR mitigation measures requiring planting of traditional Native American plants. The bluff is an appropriate location for a dedicated observation point in conjunction with an Interpretative Center located elsewhere on the Project site. An Interpretive Center is appropriate in an area where foot traffic and other public facilities support a successful public facility. The bluff, where a public overlook is planned for walkers and hikers, could provide cultural interpretive signage taking advantage of the wide-spanning views of the Bay, Marin County, and San Francisco. Regarding project naming, in particular the Point and Bluff, careful community and tribal input should be required prior to naming. Native American Cultural Center be integrated into the top of the bluff of this plan. The Point should be re-named Ohlone Point and the bluff - Ohlone Bluff

39. **Addition to lighting guidelines:** Add - no outdoor light should have a color temperature greater than 3000 K and all path and landscape lighting shall be directed downward and all exterior sconces shall be shielded and the light bulb shall not be visible. Pathway lighting for parks shall not interfere with nighttime navigation with water traffic.

FIRE

40. The furthest projection of the exterior wall of a building shall be accessible from within 150 ft of an approved Fire Department access road and water supply as measured by an unobstructed route around the exterior of the building. (CFC 503.1.1)
41. Dead ends exceeding 150 feet in length require an approved Fire Department turnaround (45' radius cul-de-sac or city standard hammerhead). CFC 503.2.5
42. All turning radii for fire access shall be designed as 25' inside and 45' outside. CFC 503.2.4
43. Roads used for Fire Department access generally shall have an unobstructed width of not less than 26'. Where topographic or other site constraints limit roadway width on roads used for fire access, access to shoulder and/or sidewalk shall be available for use in an emergency. Roads used for Fire Department access shall have an unobstructed vertical clearance of 13'6" or more. CFC 503.2.1
44. When access roads are divided by a median and two lanes of one way traffic exist, the minimum single lane width may be reduced to 16 feet.
45. Fire lanes provided for aerial ladder/truck rescue operations around buildings four (4) or more stories in height shall have their clear access portion from a distance of thirty (30) feet for the closest portion of the fire lane to a distance of fifty (50) feet for the most distant portion of the fire lane in respect to the building perimeter walls.
46. Fire Apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather driving capabilities (minimum 74,000 lbs.). CFC 503.2.3
47. Fire Department access roadways having a grade of between 16 percent and 20 percent shall be designed to have a finish surface of grooved concrete sufficient to hold a 45,000 pounds traction load. The grooves in the concrete surface shall be ½ inch wide by ½ inch deep and 1 ½ inch on center and set at a 30 to 45 degree angle across the width of the roadway surface. No grade shall exceed 20 percent, nor shall the cross slope exceed 8% unless authorized writing by the fire code official.

48. Provide a secondary access. The chief is authorized to require two means of access for sites serving more than 30 one or two family dwelling units or more than 200 multi-family dwelling units and/or when it is determined by the chief that access by a single road might be impaired by vehicle congestion. CFC Appendix D106 and 107
49. Provide the required fire hydrants in accordance with CFC 507 and Appendix B, Section B105. In addition local amendments Section 4908.5 (Water Supply) fire hydrants within Very High Fire Hazard Severity Zone shall be spaced every 300 feet and shall have a fire flow of 2500 gallon per minute or a fire flow approved by the Fire Chief.

Note: Appendix B, Table B105.1(2) has been amended by the City of Richmond so that the maximum amount of fire flow reduction is limited to 50% of the required GPM of Table B105.1 (2). The minimum fire flow requirement shall not be less than 2,500 GPM per local code amendment section 4908.5.

50. Fire service mains shall not cross property lines unless a reciprocal easement agreement is provided.
51. A reciprocal ingress egress agreement shall be provided for review by City Attorney for all shared driveways being used for Fire Department access.
52. Maintenance agreements shall be provided for the interior roadways of the proposed complex and for the fire protection systems. The agreement shall be record with the Public Records Office having jurisdiction and shall provide for the following:
 - a. Provisions for the necessary repair and maintenance of the roadway surface
 - b. Removal of vegetation overgrowing the roadway and infringing on the roadway clear vertical height of thirteen feet six inches (13'6") and/or width of twenty feet (26')
 - c. Provisions for the maintenance, repair, and/or replacement of NO PARKING-FIRE LANE signage or striping
 - d. Provisions for the necessary repair and maintenance of vehicle and pedestrian access gates and opening systems
 - e. Unrestricted use of and access to the roadways covered by the agreements.
 - f. Provisions for the control of vehicle parking in prohibited areas and a mechanism for the removal of vehicles illegally parked.
 - g. Maintenance and timely repair of all fire protection systems, including but not limited to hydrants, fire alarm systems and fire sprinklers.
53. Timing and Installation. When fire protection, including fire apparatus access roads and water supplies for fire protection, is required to be installed, such protection shall be installed and made serviceable prior to and during the time of construction. CFC 501.4

54. Provide a water flow test. (Make arrangements through EBMUD). CFC 507.4
55. Provide appropriate Knox access for site. CFC Section 506
56. An automatic fire sprinkler system shall be installed in any portion of a building when the floor area of the building exceeds 5,000 square feet for Occupancy Groups A, B, E, F-1, S, Group M occupancies exceeding 1,500 square feet, all buildings with 3 stories or more than 35' in height (as measured in accordance with CBC Chapter 5 CFC), all structures within the VHFHSZ areas of Richmond City, any structure that requires a fire flow in excess of 2,000 GPM and all R Occupancies. Fire Code Amendments 903.2
57. Locate and identify Fire Department Connections (FDCs) no further than 100 feet from a fire hydrant and not more than 30 feet from a paved roadway.
58. Any building three (3) stories in height shall have a Class I standpipe installed that is interconnected with the fire sprinkler system. Except in the case where the stairway is located internally for each individual dwelling unit being served for multi-family buildings. CFC Fire Code Amendments 905.3.1 (2)
59. Per the most recently adopted California Residential Code, all new residential construction including 1 and 2 family dwellings and townhouses shall be provided with an approved NFPA 13 D sprinkler system.
60. Minimum gate width shall provide 20 feet clear access. Gate shall have AC power and be provided with Key override switch (Knox). For gates that do not fail safe in the open position upon loss of AC power or are provided with battery back-up power, an approved pedestrian gate shall be installed within 10 feet of all vehicle gates. An approved key box (Knox) shall be installed at least 48 inches above grade on the outside of the gate. It shall be provided with a key to open the pedestrian gate.
61. Emergency Responder Radio Coverage may be required. Testing shall be conducted by an authorized technician to verify compliance with section 510, CFC. This test shall verify that building will support the City of Richmond Fire Department Radio Communication System. This test shall be performed once all computers, electronics and/ or wireless systems and etc. have been installed.
62. Construction method and requirements within the established limits shall comply with the wildfire protection building construction requirements contained in the California Building Standards Code including the following:
 - a. California Building Code Chapter 7A
 - b. California Residential Code Section R327.
 - c. California Reference Standards Code Chapter 12-7A
 - d. City of Richmond Local Amendments

e. Any other applicable amendments.

63. The Planned Area District on Table 1.050- L10 shall be added as follows: A Conditional Use Permit for Hotel and Motel use may only be granted upon determination that the proposal conforms to the general use permit criteria and to all of the following additional use permit criteria:
1. That the proposal considers the impact of the employees of the hotel or motel on the demand in the City for housing, public transit, and social services.
 2. If known, the proposed operator of the facility shall be identified as part of the project description at the time of application.
64. The developer agrees to reimburse the City for all costs related to completing the annual review of the Development Agreement.
65. All of the mitigation measures and improvement measures set forth in the certified Point Molate Mixed-Use Development Project Subsequent Environmental Impact Report (State Clearinghouse No. 2019070447) and Mitigation Monitoring and Reporting Program are hereby incorporated by reference and implementation of them is included as a condition of approval of this project. Project proponent shall reimburse the City for costs related to monitoring the project's compliance with applicable MMRP measures.
66. Prior to the approval of any permits, including building and grading permits for the Project or Offsite Improvements if permits for the Offsite Improvements are issued separately from or prior to the building permits for the Project, Developer shall, at its sole cost and expense, prepare and submit to City for approval, a plan for funding the operation and maintenance of: (a) the Project's internal streets and (b) the Offsite Improvements (the "Project O&M Plan"). The Project O&M Plan shall be solely Developer/Project funded using financing mechanisms that may include CFD/Assessment District and/or Master Owner Association funding.
67. The applicant shall have street improvement plans prepared for all work in the public right of way by a licensed civil engineer and obtain Department of Public Works approval prior to the issuance of the encroachment permit or subdivision improvement plans.
68. Applicant shall indemnify, defend and hold harmless the City, its Council, Planning Commission, advisory boards, officers, employees, consultants and agents (hereinafter "City ") from any claim, action or proceeding (hereinafter "Proceeding") brought against the City to attack, set aside, void or annul the City's actions regarding this project and its supporting California Environmental Quality Act document, including any mitigation monitoring program, but excluding any approvals governed by California Government Code Section 66474.9. This indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and costs of suit, attorney's fees and other costs, liabilities and expenses

incurred in connection with such proceeding incurred by City or for which the City would be liable due to such Proceeding. If applicant is required to defend the City as set forth above, the City shall retain the right to select the counsel who shall defend the City.