

## RESOLUTION NO. 97-20

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND CERTIFYING THE POINT MOLATE MIXED-USE DEVELOPMENT PROJECT SUBSEQUENT ENVIRONMENTAL IMPACT REPORT (STATE CLEARINGHOUSE #2019070447) AND ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM, CEQA FINDINGS OF FACT AND A STATEMENT OF OVERRIDING CONSIDERATIONS, AND APPROVING GENERAL PLAN MAP AND TEXT AMENDMENTS, DISPOSITION AND DEVELOPMENT AGREEMENT, VESTING TENTATIVE TRACT MAP, CONDITIONAL USE PERMIT, AND MAJOR DESIGN REVIEW (PLN20-57), SUBJECT TO FINDINGS AND CONDITIONS HEREIN

---

#### I. GENERAL FINDINGS

**A. Introduction.** Winehaven Legacy LLC (“Applicant”) is proposing to construct a mixed-use development project (“Project”) on approximately 82 acres of the 276 acre above water portion of the 412-acre Point Molate property, City of Richmond, Contra Costa County, California. The Project entitlements includes a General Plan Amendment and 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. Pursuant to the master PA Plan and as part of its formal Project application to the City, the Applicant is proposing a mixed use project that would include approximately 1,425 residential units, 374,573 square feet of rehabilitated historic structures, 250,000 of new construction for mixed-use development, a fire station and police substation, approximately 70% of the above water acres as open space, including recreational areas, parks, trails (including contributing to portions of the San Francisco Bay Trail along the shoreline), vista overlooks, and other similar spaces; updating an existing building as a terminal on the existing pier for water transit options, a new road to serve the development, including widening Stenmark Drive, and utilities and infrastructure necessary to serve the new development (“Project”). Required Project approvals include: (1) a General Plan Amendment to change the land use classification and other text edits; (2) Rezoning to PA District, with an –H, Historic District Overlay for the Winehaven Historic District (“Zoning Amendment”); (3) a Disposition and Development Agreement (DDA) between the City of Richmond (City) and the Applicant to transfer ownership of portions of the Project Site from the City to the Applicant; (4) Development Agreement; (5) Design Guidelines, including a Master Planned Area Plan and Historic Conservation Plan; (6) a Vesting Tentative Tract Map; (7) Conditional Use Permit; and (8) Major Design Review of the Design Guidelines (collectively referred to as the “Project Approvals”).

**B. Environmental Review Process.** In accordance with the requirements of California Environmental Quality Act (“CEQA”), Sections 21000 through 21177 of the California Public Resources Code, and Sections 15000 through 15387 of the California Code of Regulations Title 14 (“CEQA Guidelines”), a Notice of Preparation (“NOP”) of a Draft Subsequent Environmental Impact Report (“SEIR”) was filed for the Project with the State Clearinghouse (“SCH”) Office of Planning and Research (“OPR”) on July 12, 2019 (State Clearinghouse # 2019070447). The NOP was distributed to public agencies and interested parties for a 30-day public review period which ended on August 12, 2019. In addition, the City held a public scoping meeting on July 29, 2019 to obtain public input on the proposed scope and content of the Draft SEIR. In accordance with CEQA requirements, a Notice of Completion (“NOC”) of the Draft SEIR was filed with the SCH OPR on February 21, 2020. The Draft SEIR was initially circulated for a 45-day public review period, which was set to end on April 6, 2020. However, the City extended the public comment period twice to extend the comment period from 45 days to a total of 70 days, finally closing on April 30, 2020. During this public review period, the City received written comments on the Draft SEIR. Section 15088 of the State CEQA Guidelines requires that the Lead Agency responsible for the preparation of an SEIR evaluate comments on environmental issues received from parties who reviewed the

Draft SEIR and prepare a written response addressing each of the comments. A Response to Comments was prepared for the Project and circulated to commenting agencies and posted for public review on the City website on July 24, 2020. The Final SEIR (attached hereto as Exhibit A) assembles in one document all of the environmental information and analysis prepared for the Project, including comments on the information and analysis contained in the Draft SEIR and responses by the City to those comments.

Pursuant to Section 15132 of the State CEQA Guidelines, the Final SEIR consists of the following:

- (1) The Draft SEIR, including all of its appendices;
- (2) A list of persons, organizations, and public agencies commenting on the Draft SEIR;
- (3) Copies of all letters received by the City during the Draft SEIR public review period and responses to significant environmental points concerning the Draft SEIR raised in the review and consultation process;
- (4) Revisions to the Draft SEIR; and
- (5) Any other information added by the Lead Agency to respond to written comments on the Draft SEIR.

Since publication of the Response to Comments document on July 24, 2020 and the Planning Commission recommendation on August 20, 2020, the City has continued to receive public comments on the SEIR. In response to the additional comments received, the City has prepared a technical memorandum (see Exhibit I) addressing the comments raised.

**C. Administrative Record.** The administrative record, upon which all Findings related to the approval of the Project are based, includes the following:

- (1) The SEIR and documents referenced in or relied upon by the SEIR.
- (2) All information (including written evidence and testimony) provided by City Staff to the Historic Preservation Commission, Design Review Board, Planning Commission and City Council relating to the SEIR, the Project Approvals, and the Project.
- (3) All information (including written evidence and testimony) presented at or in preparation of any City public hearing or City workshop related to the Project and the SEIR.
- (4) For documentary and information purposes, all City-adopted land use plans and ordinances, including without limitation the general plan, specific plans and ordinances, together with environmental review documents, findings, mitigation monitoring and reporting programs and other documentation relevant to the Project site.
- (5) The Mitigation Monitoring and Reporting Program (“MMRP”) for the Project.
- (6) All other documents composing the record pursuant to Public Resources Code section 21167.6(e).

The Draft SEIR and Response to Comments, along with any associated Appendices, constitute the Final SEIR. The custodian of the documents and other materials that constitute the record of the proceedings upon which the City’s decisions are based is the Community Development Director or his or her designee. Such documents and other materials are located at City Hall, Planning Division, 450 Civic Center Plaza, Richmond, California 94804. They are also available online at: <http://www.ci.richmond.ca.us/3757/Point-Molate-Mixed-Use-Project>.

**D. Findings.** On September 8, 2020, the City Council conducted a duly noticed public hearing on the Project. After considering public testimony and materials in the staff report, including the Final SEIR (State Clearinghouse #2019070447), MMRP and findings in support of the General Plan Amendment, Rezoning, Development Agreement, Design Guidelines, including a Master Planned Area Plan and Historic Conservation Plan, Vesting Tentative Tract Map, Conditional Use Permit, and Major Design Review of the Design Guidelines, the City Council, in its independent and

objective judgment, finds that the Final SEIR is adequate and sufficient in all respects and the findings set forth below are appropriate and adequate to support the Certification of the Final SEIR, adoption of the Mitigation Monitoring and Reporting Program, and approval of the Project Approvals. These findings are made pursuant to CEQA and the Richmond Municipal Code. These findings explain the potential environmental impacts of the Project, identify mitigation measures that have been adopted to mitigate those impacts, explain the statements of overriding considerations for impacts that cannot be mitigated to a less than significant level, explain the alternatives that were evaluated and rejected, include the findings to support the adoption of the MMRP, and include the findings to support the approval of the General Plan Amendment, Rezoning, Planned Area District, Development Agreement, Vesting Tentative Tract Map, Conditional Use Permit, and Major Design Review ("Findings").

## II. CEQA FINDINGS.

The City of Richmond is the Lead Agency with respect to the Project pursuant to Section 15367 of the CEQA Guidelines. The following findings support the Planning Commission's recommendation to the City Council to certify the SEIR:

1. The SEIR for the Point Molate Mixed-Use Development Project, attached hereto as "Exhibit A," has been completed in compliance with the California Environmental Quality Act, Public Resources Code Section 21000 et seq., and the City of Richmond's Guidelines and Procedures for Implementation of CEQA, Resolution No. 125-03 (adopted September 23, 2005), and reflects the independent judgment and analysis of the City.
2. The City hereby adopts the Findings and a Statement of Overriding Considerations Pursuant to Public Resources Code section 21081 and State CEQA Guidelines Section 15091 and 15093 for the Point Molate Mixed-Use Development Project ("CEQA Findings and Statement of Overriding Considerations "), attached hereto as "Exhibit B."
3. The City hereby adopts and makes conditions of approval of the Point Molate Mixed-Use Development Project and any alternative thereto all of the mitigation measures that are within the responsibility and jurisdiction of the City that are identified in the CEQA Findings.
4. The City further finds that recirculation of the SEIR is not required in response to the comments received on the Draft SEIR because the Final SEIR and public comments do not contain any significant new information—that is, none of the information provided discloses that a new significant environmental impact would result from the Project or its alternatives or from a new mitigation measure proposed to be implemented, that a substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance, that a feasible mitigation measure or alternative considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the Project but the City declines to adopt it, or that the Draft SEIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.
5. The City hereby adopts the MMRP for the Point Molate Mixed-Use Development Project, attached hereto as "Exhibit C."

## III. GENERAL PLAN AMENDMENT FINDINGS

The following findings of fact support the approval of the General Plan Amendment attached as **Exhibit D** pursuant to Richmond Municipal Code (RMC) Section 15.04.813.050:

### **A. The proposed amendment will contribute to the public health, safety, and general welfare or will be of benefit to the public.**

Statement of Fact: ***Criterion Satisfied.*** The Project's proposed General Plan amendments include: (1) changing the Project Site's land use designation from Open Space, Parks and Recreation, Business/Light Industrial, Medium-Density Residential, and Low-Density Residential to Open Space, Parks and Recreation, Medium-Intensity Mixed-Use (Gateway or Community Node), Medium Density Residential, and Low-Density Residential; (2) amending the text of the Medium-Intensity Mixed-Use (Gateway or Community Node), Medium Density

Residential, and Low-Density Residential land use designations; (3) amending the Land Use Element's description of Change Area 13; and (4) amending the Figures in the Land Use Element and General Plan Map. The proposed General Plan amendment will benefit the public as follows:

- Create a new, vibrant community within the City on a contaminated site by remediating the soil contamination caused by the Navy's use of the Project Site in development areas,
- Conserve approximately 70 percent of the Project Site as open space and increase public access to open space and shoreline by opening up the use of the hillside land as open space, and construction of an overlook park and open space areas along shoreline area.
- Contribute to construction of a portion of the Bay Trail and the addition of bicycle and pedestrian paths.
- Reduce the risk of wildfire within the Project Site by undertaking vegetation management and constructing a fire station.
- Rehabilitate existing historic buildings in the Winehaven Historic District for adaptive reuse.

The Project will also result in promotion of the major General Plan goals, including but not limited to the following:

Promotion of General Plan Goal LU 1. The Project would accomplish General Plan Goal LU 1: An Improved Urban Environment by providing improvements that connects the Point Molate area with the rest of the City and develops the Project Site with vibrant, mixed-use development and amenities such as retail, community facilities, parks and open space areas;

Promotion of General Plan Goal LU 2. The Project would accomplish General Plan Goal LU 2: Healthy and Viable Neighborhoods by creating a healthy and viable neighborhood that provides safe places for people of all ages, ethnicities and abilities to live and play. It will also distribute small public gathering areas to provide all residents with opportunities to enjoy the benefits of a rich social and physical environment;

Promotion of General Plan Goal LU 4. The Project would accomplish General Plan Goal LU 4: Enhanced Environmental Quality by encouraging the sensitive integration of built and natural environment and Project Site topography to develop a high quality experience;

Promotion of General Plan Goals LU 6 and CN 6. The Project would accomplish General Plan Goals LU 6: High-Quality and Sustainable Development and CN 6: A Healthy Urban Environment by developing a project with a high standard of design, planning and construction of new private facilities, infrastructure and services. By furthering the remediation of the Project Site and implementing several sustainable measures, the Project will promote an eco-district planning approach that supports a sustainable and healthy community and follows the natural topography of the Project Site;

Promotion of General Plan Goal ED1. The Project would accomplish General Plan Goal ED1: An Appealing Place to Live and Work by contributing to a safe and welcoming environment for residents through the development of currently underutilized and contaminated property, construction of a new fire station and police substation, and by contributing to the range of housing types and residential densities available in the City;

Promotion of General Plan Goals ED 2 and ED 3. The Project would accomplish General Plan Goals ED2: Quality Jobs and Revenue and ED 3: An Educated and Skilled Workforce by providing numerous high-quality construction jobs that pay prevailing wage and would comply with the City's First Hire policy.

Promotion of General Plan Goal PR1 and PR 2. The Project would accomplish General Plan Goal PR 1: An Integrated System of Parks, Green Streets and Trails and PR 2: Safe and High-Quality Parks and Recreational Facilities by developing a public shoreline park area that will include a diverse range of recreational facilities such as a vista overlook, a designated paddle sport launch area, an interpretive center, public art and cultural exhibits, picnic areas, play areas, and restroom facilities; construction of portion of Bay Trail; and open up the access of hillside area open space to local residents and visitors;

Promotion of General Plan Policy HW4.3. The Project would support General Plan Policy HW4.3: Safe and Convenient Walking and Bicycling by developing a project that promotes walking and biking as a safe and convenient mode of transportation by installing additional amenities such as bicycle parking and improvements, including contributing to construction of a portion of the Bay Trail;

Promotion of General Plan Goal PR3. The Project would accomplish General Plan Goal PR3: Sustainable Design and Maintenance Practices by developing a project that has a planting and landscaping plan in the Project's Design Guidelines that emphasize natives and drought-tolerant plants, and proposed to revegetate upland areas disturbed by construction with native plant communities;

Promotion of General Plan Goals HR 1 and HR. 3. The Project would accomplish General Plan Goal HR1: Historic Resource Preservation and Goal HR 3: Promotion of General Plan Goal by rehabilitating and reusing the historic buildings in the Winehaven Historic District as a vibrant mixed-use neighborhood;

Promotion of General Plan Goal H-1. The Project would accomplish General Plan Goal H-1: A Balanced Supply of Housing by adding to a range of housing types and residential densities available in the City;

Promotion of General Plan Goals CR 1, CR 2 & EC 2. The Project would accomplish General Plan Goal CR 1: An Expanded Multimodal Circulation System, Goal CR 2: Walkable Neighborhoods and Complete Streets, and Goal EC 2: Clean and Efficient Transportation Options by expanding 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.

**B. The proposed amendment is consistent with the General Plan goals, unless the goals themselves are proposed to be amended.**

Statement of Fact: *Criterion Conditionally Satisfied.* The proposed Project includes development of a mix of residential and commercial uses, including office space and retail, along with open space including recreational areas, parks, trails (including a portion of the San Francisco Bay Trail), vista overlooks, and other similar spaces open to the public, a joint police and fire stations, and infrastructure improvements to serve the Projects. All the proposed uses are consistent with the requested Open Space, Parks and Recreation, Medium-Intensity Mixed-Use (Gateway or Community Node), Medium Density Residential, and Low-Density Residential land use classifications in the General Plan. In addition, the proposed Project request five General Plan text amendments, which allow the flexibility to address the Projects Site's constraints, such as existing contamination from former Navy uses, the Regional Water Board clean up order and land use restrictions, the need to preserve the existing historic buildings and tribal cultural resources, and the topographical and biological constraints. As discussed above, with approval of the General Plan Amendments proposed for the Project, the Project would accomplish numerous General Plan goals and policies, as discussed in (A) above.

**C. The proposed amendment retains the internal consistency of the General Plan and is consistent with other adopted plans, unless a concurrent amendment to those plans is also proposed and will result in consistency.**

Statement of Fact: *Criterion Conditionally Satisfied.* The proposed amendment is consistent with the rest of the General Plan and appropriate changes have been made to maintain consistency. The Project proposes the following General Plan amendments: (1) amend the Project Site's land use designation from Open Space, Parks and Recreation, Business/Light Industrial, Medium-Density Residential, and Low-Density Residential to Open Space, Parks and Recreation, Medium-Intensity Mixed-Use (Gateway or Community Node), Medium Density Residential, and Low-Density Residential; (2) amend the text of the Medium-Intensity Mixed-Use (Gateway or Community Node), Medium Density Residential, and Low-Density Residential land use designations; (3) amend description of Change Area 13 in the General Plan; and (4) amend the Figures in the Land Use Element and General Plan Maps. Therefore, the proposed Project would be consistent with the General Plan upon adoption of the General Plan Amendment.

The proposed General Plan amendment is also consistent with the Base Reuse Plan developed by a 45-member Blue Ribbon Advisory Committee and approved by the City Council, acting as the Local Reuse Authority, in 1997. The General Plan and the Base Reuse Plan anticipated the redevelopment of the Project Site with a mix of residential and commercial uses that would support the rehabilitation of the historic buildings on the Project Site and result in recreational uses along the Project Site's shoreline and open space in the hillside areas.

Overall, the Project furthers General Plan policies that promote the establishment of complete, pedestrian-oriented, mixed-use and mixed-income neighborhoods; access to open space; improved and efficient multi-modal connectivity, increased economic development opportunities, increased housing opportunities, and redevelopment of brownfield sites. Further consistencies with the General Plan are identified in the Land Use section of the SEIR, Attachment 2 to the Response to Comment document of the SEIR and in (A) above. As such, with approval of the concurrent General Plan amendments for the Project, the Project will retain the internal consistency of the General Plan and is consistent with other adopted plans.

**D. The proposed amendment has been reviewed in compliance with the requirements of the California Environmental Quality Act.**

Statement of Fact: **Criterion Satisfied.** As required by the California Environmental Quality Act (CEQA) Guidelines, a Draft SEIR was prepared and, consistent with the CEQA Guidelines, a 70-day public review period was established for comments on the Draft SEIR. All comments, raising environmental issues, received on the Draft SEIR by the close of the comment period were responded to and addressed in the Response to Comment, which was released on July 24, 2020. The Final SEIR is accompanied by a Mitigation Monitoring and Reporting Program (MMRP).

**IV. DESIGN REVIEW FINDINGS**

The following findings of fact support the approval of the Design Review for the Planned Area Plan and associated Design Guidelines in Exhibit E, as required by RMC Section 15.04.805.050:

**A. The Project application is consistent with the General Plan and any applicable specific plans.**

Statement of Fact: **Criterion Conditionally Satisfied.** As discussed above under the General Plan findings, redevelopment of the Project Site under the proposed General Plan amendment, Zoning Amendment to PA District, and PA Plan is consistent with the City's vision of new development at the Project Site as articulated in the Base Reuse Plan, including the rehabilitation and adaptive reuse of the contributing structures to the Winehaven Historic District. Thus, with approval of these various Project approvals, including the General Plan and zoning amendments, the Project will be consistent with the General Plan and any applicable specific plans.

**B. The Project application is consistent with any applicable design guidelines.**

Statement of Fact: **Criterion Conditionally Satisfied.** There are currently no design guidelines that apply to the Project Site. But the Project proposes Design Guidelines with which future development in the Project must comply. These design guidelines will be used in tandem with the proposed PA Plan to guide the overall master plan and character of the new neighborhoods and open space within the PA Plan area. Thus, with the approval of the proposed Design Guidelines for this Project, the future development on the Project Site will satisfy this criterion.

**C. The Project application is consistent with any approved tentative map, Use Permit, Variance, or other planning or zoning approval that the project required.**

Statement of Fact: **Criterion Conditionally Satisfied.** The Project proposes a General Plan Amendment, rezoning the Project Site to a Planned Area District, a Planned Area Plan, a vesting tentative tract map, an –H, Historic District Overlay over the Winehaven Historic District, and a conditional use permit to construct shoreline park and Bay Trail extension in an area with an –S, Shoreline Overlay (which is the area within 100-feet of the shoreline).

Implementation of the PM-PAD would rezone the Project Site from Parks and Recreation, Single Family Hillside Residential, Multifamily Residential, General Commercial, Light Industrial, and Open Space to a Planned Area District (PM-PAD) with portions of the PAD area subject to a Historic (-H) overlay and Shoreline (-S) overlay. The proposed PM-PAD zoning consists of eight subdistricts—Point Molate Residential (PMRD), Point Molate Multifamily (PMM), Point Molate Mixed-Use (PMMUD), Point Molate Mixed-Use Historic (PMMUD-H), Point Molate Parks and Recreation (PMPR), Point Molate Parks and Recreation-Shoreline (PMPR-S), Point Molate Open Space (PMOS), and Point Molate Public, Cultural, and Institutional (PMPCI)—that appropriately respond to the Project Site’s diversity. The proposed Point Molate Planned Area District (PM-PAD) consists of the PM-PAD Zoning, including the PM-PAD Zoning Map, the Point Molate Planned Area Plan (included as Section 2.0 of the Point Molate Design Guidelines), and a vesting tentative tract map. The proposed large-lot vesting tentative map establishes development boundaries and grading limits and provides for installation of the necessary infrastructure to support the Project.

The Project would be consistent with the proposed vesting tentative tract map, use permit, Zoning Amendment, and General Plan amendment approvals. As part of the Project approvals, the City Council will make the required findings for the Project for each of those planning and zoning approvals. Further, the future Development Plan Review process for development of individual projects in the PA Plan area would ensure that the future development is in compliance with the planning and zoning approvals of the Project. As such, with the approval of the proposed tentative map, use permit, Zoning Amendment, and General Plan amendment for the Project, the future development on the Project Site will satisfy this criterion.

***D. The Project application is consistent with the design review criteria in Richmond Municipal Code Section 15.04.805.040 (Design Review Criteria).***

<b>The project must satisfy these criteria to the extent applicable.</b>	<b>Criteria Met?</b>
A. The overall design of the project, including its scale, massing, site plan, exterior design, and landscaping, reflects design integrity and the relationship of form and function in a coherent manner.	<u>Yes</u> No
B. The project design evidences a sense of place and consideration of scale, mass, height, building siting, and privacy in a neighborhood and community context; does not overwhelm or adversely impact adjoining properties; and respects prevailing setbacks and the scale and heights of neighboring buildings and how they relate to the street.	<u>Yes</u> No
C. The project’s design elements, materials, signage, and landscaping are internally consistent, fully integrated with one another, and applied in a manner that is visually consistent with the proposed architectural design.	<u>Yes</u> No
D. Lighting and lighting fixtures are designed to complement buildings, be of appropriate scale, provide adequate light over walkways and parking areas to create a sense of pedestrian safety, and avoid creating glare.	<u>Yes</u> No
E. The proposed building design and landscaping supports public safety and security by allowing for surveillance of the street by people inside buildings and elsewhere on the site.	<u>Yes</u> No
F. Landscaping is designed to be compatible with and enhance the architectural character of the buildings on site. Proposed planting materials avoid conflicts with views, lighting, and signage.	<u>Yes</u> No

**Statement of Fact: *Criterion Conditionally Satisfied.*** The proposed PA Plan and the Point Molate Design Guidelines create a new community that responds to the Project Site’s unique features. The Project evokes a sense of place by creating three new, yet distinct neighborhoods: the Promenade, the Point, and the Village. The proposed Design Guidelines provide the recommendations for the Project’s design elements, materials, signage types, and landscaping to take advantage of the unique history and cultural character of the Project Site and provide

distinct character to each of the three proposed neighborhoods. Further, Point Molate Design Guidelines incorporates much of the existing City requirements by reference, wherever feasible.

The Project's Design Guidelines are inspired by Bay Area architecture and suggest forms that evoke a contemporary bayfront approach to community design. Because the Winehaven Historic District will have an -H overlay, new development within that area must comply with Secretary of the Interior's Standards for the Treatment of Historic Properties, which recommend retaining and preserving buildings and features that are important in defining the overall historic character and ensuring that new construction does not detract from the significance of the historic buildings. The proposed Design Guidelines require high-quality architectural materials and native or drought-tolerant landscaping. The Design Guidelines also require new development to be sensitive to the Project Site's historic context, topography, and natural resources, and encourage development of an eco-district.

For lighting, as per the City requirements, the proposed Design Guidelines incorporates the Dark Sky principles which include putting light only where it is needed, using only as much light as is needed, using light only when it is needed, and managing the light spectrum. Interior and exterior light fixtures would complement existing and new buildings. Specifically, all exterior lighting would comply with the City's bird-safe requirements and meet the City's lighting standards and requirements to prevent glare, light trespass, and light pollution to the maximum extent feasible.

The proposed Design Guidelines encourage orienting the buildings towards the public realm; streets, sidewalks, and parks to encourage "eyes on the street." The design guidelines recommend that new buildings acknowledge the street by having street-facing entrances and, where appropriate, street-facing windows. The Design Guidelines promote pedestrian activation of the streets through sidewalks, shade trees, bicycle paths and ground floor retail in more active areas. These features support pedestrian activation of the public realm and public safety.

The landscape guidelines in the proposed Design Guidelines builds upon the existing site character, and identifies specific landscape zones within the Project Site, and provides strategic approaches for the distinct subcategories of the Point Molate landscape. The landscaping guidelines encourage that the new and existing landscape would frame views, provide variety in color and texture, and emphasize natives and drought-tolerant plants. The landscaping guidelines promote compatibility and enhancement of the architectural character of the buildings on site, and adding street trees along public rights-of-way that would not obstruct lighting or signage. Upland areas disturbed by construction would be revegetated with native plant communities. The Project's CC&Rs would require that the commonly owned landscaping be maintained to avoid conflicts with views, lighting, and signage.

Further, the Development Plan review process for development of individual projects envisioned under the PA District zoning would ensure that future development is in compliance with the proposed Design Guidelines, and ensure that the Project's design elements, materials, signage types, lighting requirements and landscaping are internally consistent and integrated throughout the PA Plan area. With approval of these PA Plan and the Point Molate Design Guidelines, the future development on the Project Site will satisfy this criterion.

## **V. CONDITIONAL USE PERMIT -RMC Sections 15.04.306.030 and 15.04.806**

The following findings of fact support the approval of a Conditional Use Permit for uses and development within an -S, Shoreline Overlay District pursuant to Article 15.04.806 (Use Permits).

### **A. The location of the proposed conditional use is in accordance with the General Plan and any applicable specific plan and the land use designations for the project site;**

Supporting Statement of Facts: ***Criterion Satisfied.*** The General Plan land use and the zoning designation of the Project Site in this -S Overlay area (which is the area within 100-feet of the shoreline) is Parks and Recreation. The Project would construct a continuous shoreline park and the approved Bay Trail extension in this area. The proposed General Plan amendment and proposed PAD Plan maintain the Parks and Recreation designation within the -S Overlay area. Thus, the Project is consistent with the General Plan and the zoning district of the Project Site.

**B. The location, size, design, and operating characteristics of the proposed use will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood;**

Supporting Statement of Facts: *Criterion Satisfied.* The shoreline park and integrated Bay Trail extension would complement the Project's residential and commercial uses by providing nearby passive and active recreational spaces, not only for the Project but for the visitors as well.

**C. The proposed use will not create any nuisances arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding ambient conditions;**

Supporting Statement of Facts: *Criterion Satisfied.* The proposed recreational uses and construction of the approved Bay Trail extension would not create nuisances. The recreational uses proposed along the shoreline areas are not associated with emission of odor or producing large amounts of dust, gas, noise, vibration, smoke, heat, or glare. Security lighting along the street, parks and trail areas would consist of low path lighting and other full cut off lights, in compliance with the RMC provisions for lighting, that do not create glare or disturb birds. See Major Design Review Finding (F) above for further details.

**D. The proposed use complies with all applicable provisions of Article XV; and**

Supporting Statement of Facts: *Criterion Satisfied.* The park and recreation uses would comply with all applicable provisions of the City's zoning code, including provisions related to lighting. In addition, the construction and operation of the uses would comply with all relevant mitigation measures identified in the SEIR during the CEQA process and adopted through the MMRP.

**E. The site of the proposed use is adequately served by highways, streets, water, sewer, and other public facilities and services.**

Supporting Statement of Facts: *Criterion Satisfied.* The proposed shoreline park, throughout its 1.7-mile length, would be publically accessible and adequately served by the upgraded Stenmark Drive and two new parking areas in addition to street parking. The Project also proposes the Bay Trail, sidewalks, trails, and multi-use paths for direct access of the Bicyclists and pedestrians, and connecting the park to the adjacent neighborhoods. Public restrooms would be provided as part of the Project.

## **VI. VESTING TENTATIVE TRACT MAP FINDINGS**

The following findings of fact support the approval of the Vesting Tentative Tract Map, attached as Exhibit F, as required by RMC Section 15.04.702.100 (and Government Code § 66474):

**A. Consistency.** The proposed subdivision, together with the provisions for its design and improvement, is consistent with the General Plan, any applicable specific plan, the Zoning Ordinance, and other applicable provisions of the City's Municipal Code.

Supporting Statement of Facts: *Criterion Conditionally Satisfied.* As discussed in detail in Zoning Amendment findings (A) and (D), and PAD finding (A), the Project and the Proposed map would be consistent with the General Plan and zoning as proposed to be amended by the Project. There are no applicable specific plans. Thus, with approval of the Project's proposed General Plan and zoning amendments, the design and improvements of the proposed subdivision are consistent with the General Plan, as amended by the Project, and backbone infrastructure (streets, utilities, etc.) would meet the requirements under the City's Subdivision Ordinance.

**B. Physically Suitable.** The site is physically suitable for the type of development and the proposed density of the development.

Supporting Statement of Facts: *Criterion Satisfied.* The Project would make the site physically suitable for the proposed Project by remediating residual contamination from Navy use in areas proposed for development and installing the necessary infrastructure and undertaking the grading necessary to support the Project's proposed uses and density. Further, as discussed in PAD finding (B), the Project and its intensity is physically suitable for the proposed development, including avoidance of sensitive biological resources, steepest slopes, and be pushed back from the shoreline.

**C. No Environmental Damage.** The proposed subdivision, together with the provisions for its design and improvement, are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat, unless an Environmental Impact Report (EIR) is prepared and a finding made that specific economic, social, or other considerations make the mitigation measures or project alternatives infeasible, pursuant to Section 21081(a)(3) of the Public Resources Code.

Supporting Statement of Facts: *Criterion Satisfied.* The design of the subdivision and its proposed improvements would not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. The Project Site has undergone extensive environmental analysis, most recently in a Draft and Final SEIR. The SEIR concluded that, with mitigation, construction of the Project and its subdivision and improvements will not cause substantial, unavoidable biological impacts.

**D. Public Health Problems.** The proposed subdivision, together with the provisions for its design and improvement, is not likely to cause serious public health problems.

Supporting Statement of Facts: *Criterion Satisfied.* The subdivision and improvements would result in the Project Site undergoing extensive remediation in areas proposed for development that would remove existing hazards to public health left from Navy use. The remediation and subsequent new construction would comply with federal, state, and local standards that minimize public health impacts. Further, as explained in detail above in General Plan Finding (A) and Zoning Amendment Finding (B), the Project will contribute to the general public health, safety, and general welfare.

**E. No Conflict with Easements.** The proposed subdivision, together with the provisions for its design and improvement, will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision. The City may approve a map if it finds that alternate easements for access or for use will be provided and that these easements will be substantially equivalent to ones previously acquired by the public.

Supporting Statement of Facts: *Criterion Satisfied.* The design of the subdivision and associated improvements would not conflict with easements for access through or use of the Project Site. The subdivision and associated improvements would improve access to and through the Project Site by improving Stenmark Drive, constructing the approved Bay Trail extension that runs through the Project Site, adding sidewalks and bicycle paths where none exist, and creating new trails in the hillside areas.

**F. Availability of Water.** Water will be available and sufficient to serve a proposed subdivision in accordance with Section 66473.7 of the Subdivision Map Act.

Supporting Statement of Facts: *Criterion Satisfied.* EBMUD had issued a WSA for the Casino Project proposed on the Project Site in 2008, finding that water supplies were sufficient over the 20-year demand horizon. In response to a request from the City, EBMUD issued a supplemental letter (included in Appendix F of the SEIR) concluding that the Modified Project would reduce estimated water demand as compared to the Casino Project evaluated in 2008, and that the finding of sufficient water supply remained accurate.

## **VII. DISPOSITION AND DEVELOPMENT AGREEMENT**

The proposed actions include approval of a Disposition and Development Agreement (DDA) with the Applicant which sets the terms of the sale of the development areas of Point Molate, including purchase price. The DDA is detailed in the Agenda Report in support of this Resolution and is included here as **Exhibit G**. The DDA sets the purchase price at a minimum of \$45 million, which pursuant to an Amended Federal Court Judgment, the City will split all Net Revenue 50/50 with Plaintiffs Tribe and Upstream.

## **VIII. THOROUGH AND FULL REVIEW**

In making the findings listed above and the recommendations set forth below, the Planning Commission has thoroughly reviewed the land use program, site plan, architectural guidelines, and landscape guidelines, as further described in the PA Plan and the associated Design Guidelines, as well as the proposed General Plan Amendment, Zoning Amendments, Conditional Use Permit, Design Review, and the Vesting Tentative Tract Map, and has fully considered

modifications to these elements of the Project to address issues raised by the DRB, by the SEIR, and by the comments of the public and public agencies on both the SEIR and the Project.

**IX. SEVERABILITY**

Should any provision, section, paragraph, sentence, or word of this Resolution be rendered or declared invalid by any court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences and words of this Resolution shall remain in full force and effect.

**X. APPROVALS**

The City Council hereby certifies the Final SEIR (State Clearinghouse #2019070447) and adopts the Mitigation Monitoring and Reporting Program subject to revisions proposed by the Staff, adopts CEQA findings pursuant to Public Resources Code Section 21081, and other findings contained herein, adopts the Statement of Overriding Considerations, and approves the General Plan Amendment, Vesting Tentative Tract Map, Conditional Use Permit, Disposition and Development Agreement, and Major Design Review for the Design Guidelines for the Point Molate Mixed-Use Development Project, subject to conditions of approval in Exhibit H.

- Exhibit A: Final Subsequent Environmental Impact Report, consisting of the Draft Subsequent Environmental Impact Report, Response to Comments, and Errata to Final SEIR
- Exhibit B: CEQA Findings and Statement of Overriding Considerations
- Exhibit C: Mitigation Monitoring and Reporting Program
- Exhibit D: General Plan Amendment Map
- Exhibit E: Design Guidelines with Master PA Plan, Historic Conservation Plan, and Other Sections
- Exhibit E: Vesting Tentative Tract Map
- Exhibit F: Disposition and Development Agreement
- Exhibit G: Conditions of Approval
- Exhibit I: Technical Memorandum regarding Late Comments on SEIR

\*\*\*\*\*

I certify that the foregoing resolution was passed and adopted by the Council of the City of Richmond at a special meeting thereof held September 8, 2020, by the following vote:

AYES: Councilmembers Choi, Johnson, Vice Mayor Bates, and Mayor Butt.  
NOES: Councilmembers Martinez and Willis.  
ABSTENTIONS: None.  
ABSENT: Councilmember Myrick.

PAMELA CHRISTIAN  
CLERK OF THE CITY OF RICHMOND  
(SEAL)

Approved:

THOMAS K. BUTT  
Mayor

Approved as to form:

RACHEL SOMMOVILLA  
Interim City Attorney

State of California            }  
County of Contra Costa        } : ss.  
City of Richmond                }

I certify that the foregoing is a true copy of **Resolution No. 97-20**, finally passed and adopted by the City Council of the City of Richmond at a special meeting held on September 8, 2020.

  
\_\_\_\_\_  
Pamela Christian, Clerk of the City of Richmond

## Exhibit A: Final Subsequent EIR

Hard Copy Transmitted Previously (also available online at the following hyperlinks: [Draft SEIR](#), [Responses to Comments](#), and [Errata to Final SEIR](#) and on the Project webpage <http://www.ci.richmond.ca.us/3757/Point-Molate-Mixed-Use-Project>)

**GO TO THE PROJECT WEBPAGE LINK ABOVE TO VIEW THE ADDITIONAL EXHIBITS REFERENCED IN THIS RESOLUTION**