

RESOLUTION NO. 34-24

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND,
CALIFORNIA, SETTING ASIDE CITY COUNCIL RESOLUTION NO. 97-20 AND
ORDINANCE NOS. 22-20 AND 23-20 FOR THE POINT MOLATE MIXED USE
DEVELOPMENT PROJECT IN COMPLIANCE WITH THE WRIT OF MANDATE
ISSUED IN *NORTH COAST RIVERS ALLIANCE, ET AL. v. CITY OF RICHMOND, ET AL.*,
CONTRA COSTA COUNTY SUPERIOR COURT CASE NO. N20-1528
(CONSOLIDATED WITH CASE NO. N20-1474)**

WHEREAS, on or about September 8 and 15, 2020, the City Council for the City of Richmond considered the application by Winehaven Legacy LLC (“Winehaven”) for land use and planning entitlements (“Entitlements”) to develop a mixed-use project on approximately 82 acres of the former Point Molate Naval Fuel Depot, City of Richmond, Contra Costa County, California (“Project”); and

WHEREAS, on or about September 8, 2020, the Richmond City Council certified that the Subsequent Environmental Impact Report (“SEIR”) for the Project had been completed in compliance with the California Environmental Quality Act (“CEQA”); and

WHEREAS, on or about September 8 and 15, 2020, respectively, the City Council adopted Resolution No. 97-20 and Ordinance Nos. 22-20 and 23-20, which together certified the SEIR in compliance with CEQA and approved the Entitlements for the Project (General Plan Amendment, Rezoning, a Disposition and Development Agreement, a 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); and

WHEREAS, on or about October 9, 2020, Petitioners North Coast Rivers Alliance, et al. and Point Molate Alliance, et al. filed respective petitions for peremptory writ of mandate in the Superior Court of the State of California, Contra Costa County (the “Superior Court”), seeking to set aside the City Council’s certification of the SEIR and approval of the Project’s Entitlements. The cases proceeded to hearing as *North Coast Rivers Alliance, et. al. v. City of Richmond*, et al., Contra Costa Co. Sup. Ct. Case No. N20-1528 (consolidated with Case No. N20-1474); and

WHEREAS, the Contra Costa County Superior Court on March 15, 2022, entered Judgment Denying Petitions for Writ of Mandate in the consolidated cases. Petitioners thereafter appealed; and

WHEREAS, on October 27, 2023, the First District Court of Appeal issued its Opinion in the consolidated appeals upholding in part and reversing in part the Superior Court’s March 15, 2022 Judgment (“Opinion”). Specifically, the Court of Appeal found the SEIR technically deficient in its analysis of mitigation measures addressing impacts to tribal cultural resources and emergency evacuation risks. The Opinion denied the petitions in all other respects. On November 27, 2023, the Court of Appeal filed a Final Opinion and Order Modifying Opinion and Denying Rehearing, which replaced the disposition section of the Opinion but otherwise left the ruling intact;

WHEREAS, on January 22, 2024, in compliance with the Opinion and Order of the Court of Appeal, the Superior Court entered a new Judgment and Peremptory Writ of Mandate ordering the City of Richmond to: (1) set aside and vacate its approvals of the Project, including Resolution No. 97-20 and Ordinance Nos. 22-20 and 23-20; (2) decertify the SEIR for the Project (SCH No. 2019070447) for the purpose of addressing the deficiencies identified in the Opinion; and (3) file a return to the writ within 120 days of the Judgment; and

WHEREAS, the City must file a return to the writ of mandate no later than May 21, 2024, specifying the action(s) the City has taken to comply with the terms of the Writ.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RICHMOND HEREBY:

1. Vacates and sets aside City Council Resolution No. 97-20, under which the City Council certified the SEIR and approved the General Plan Map and Text Amendments, Disposition and Development Agreement, Vesting Tentative Tract Map, Conditional Use Permit, and Major Design Review (PLN 20-57) for the Point Molate Mixed-Use Project;
2. Vacates and sets aside City Council Ordinance No. 22-20, under which the City Council approved the rezoning of the Project Site to Planned Area (PA) for the Point Molate Mixed-Use Project;
3. Vacates and sets aside City Council Ordinance No. 23-20, under which the City Council approved the Development Agreement for the Point Molate Mixed-Use Project; and
4. The City Attorney's Office is hereby directed to file a return to the writ of mandate to the Contra Costa County Superior Court no later than May 21, 2024.

I certify that the foregoing resolution was passed and adopted by the Council of the City of Richmond at a regular meeting thereof held May 7, 2024, by the following vote:

AYES: Councilmembers Bana, McLaughlin, Robinson, Willis, Vice Mayor Jimenez, and Mayor Martinez.
NOES: None.
ABSTENTIONS: None.
ABSENT: Councilmember Zepeda.

PAMELA CHRISTIAN
CLERK OF THE CITY OF RICHMOND
(SEAL)

Approved:

EDUARDO MARTINEZ
Mayor



Approved as to form:

DAVE ALESHIRE
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. 34-24**, finally passed and adopted by the Council of the City of Richmond at a regular meeting held on May 7, 2024.

Pamela Christian
Pamela Christian, Clerk of the City of Richmond