Community Development

AGENDA REPORT

DATE:	December 6, 2022
TO:	Mayor Butt and Members of the City Council
FROM:	Lina Velasco, Director of Community Development Roberta Feliciano, Senior Planner
Subject:	Latitude Residential Subdivision (formally Terminal One Residential Project)
FINANCIAL IMPACT:	The land sale of the project will generate one-time transfer tax revenue, as well as increased property tax revenue once the Project is developed and units are sold.
PREVIOUS COUNCIL ACTION:	July 5, 2016, July 19, 2016, November 22, 2022
STATEMENT OF THE ISSUE:	Terminal One Development LLC (Applicant) proposes revisions to the Terminal 1 Residential Project approved by the City Council in July 2016. The approved 2016 Project included 323 units consisting of condominiums and townhomes, associated common areas, and site amenities on approximately 13.8 acres at 1500 Dornan Drive. As part of a settlement agreement, the overall unit count was reduced to 316. The Revised Project proposes to instead develop 154 detached single-family homes and duets with 30 Junior Accessory Dwelling Units (JADUs).
RECOMMENDED ACTION:	ADOPT a Resolution for the Latitude Residential Subdivision (formerly the Terminal One Residential Project) either: 1) Certifying the Addendum to the 2016 EIR and adopting the Mitigation Monitoring and Reporting Program (MMRP), and approving a Major Amendment to a Planned Area (PA) Plan with associated Major Design Review (DR), a Vesting Tentative Map (VTM), and a Conditional Use Permit (CUP) for park and residential

	uses within the Shoreline Overlay District, subject to conditions of approval; or 2) Certifying the Addendum to the 2016 EIR and adopting the MMRP and denying without prejudice the PA Plan Amendment with associated DR, and VTM based on the Planning Commission's recommended findings; or 3) REMAND the project back to the Planning Commission to review the financial feasibility of the previous project and consider if conditions or refinements can be made to the Revised Project to make the project more superior.

EXISTING CONDITIONS:

Until the early 1990s, the project site was a port terminal, leased to operators by the Port of Richmond for shipping, transport, and related industrial activities. Most buildings and structures have been demolished and removed from the site, except for an approximately 94,000 square-foot former port operations warehouse (Terminal 1 Warehouse) building that is partially supported by the existing wharf along the southern portion of the site, and some building foundations, railroad tracks, and other concrete surfaces. The site has been vacant and the Successor Agency, on behalf of the City, has completed certain clean-up remediation activities.

DISCUSSION:

The project site, located at 1500 Dornan Drive, is owned by the City of Richmond and is subject to a Land Disposition Agreement (LDA) between the City and the project applicant, Terminal One Development LLC. Per the LDA, the City would sell the applicant a ±10-acre portion of the overall ±13.8-acre site for construction of a medium density residential project and retain ownership of the remaining portions of the project site that would include a shoreline park and shoreline drive. The Revised Project would require amendments to the Land Disposition Agreement to reflect the updated project and any modified deal terms.

Land Disposition Agreement Amendments

On November 22, 2022, the City Council authorized the City Attorney to negotiate amendments to the executed Land Disposition Agreement that would allow the closure of the sale to occur for a modified project with certain additional provisions such as a right of reverter to take the property back due to non-performance and/or failure to obtain entitlements, modified payment schedule, and other maintenance terms. The City Council adopted a resolution to give notice to the State Department of Housing and Community Development ("HCD") of the sale as a preexisting agreement under the Surplus Land Act. As stated in the November 22nd staff report, the revised provisions sever the sale from the land use approvals, so they do not have to be granted before the sale occurs. The LDA contains the following provision:

"Developer shall be solely responsible for processing and securing all of the Entitlements required to develop the Project and construct the Offsite Improvements . . . Nothing shall be deemed to require City to grant any Local Approvals or otherwise to exercise its discretionary authority in any particular manner." (4.1.3/4.1.5)"

Revised Project Summary

The applicant proposes revisions to the Terminal 1 Residential Project that were originally approved by City Council in July 2016. The approved 2016 Project included 323 units consisting of condominiums and townhomes, associated common areas, and site amenities on approximately 13.8 acres at 1500 Dornan Drive. As part of a settlement agreement, the overall unit count was reduced to 316. The previously approved project became financially infeasible according to the applicant, which is why the applicant is proposing a Revised Project. The "Revised Project" (or "Project"), currently known as the Latitude Residential Subdivision, includes 154 detached single-family detached homes and duets with 30 Junior Accessory Dwelling Units (JADUs) incorporated into some of the single-family homes (see Exhibit B, Project Plans), a new wharf park, a new shoreline segment of the Bay Trail, and other site and infrastructure improvements.

The site improvements include, but are not limited to:

- the existing Municipal Wharf No. 1 will be structurally retrofitted and repurposed as a public park;
- a small visitor-serving café/coffee shop/deli and public plaza located in the northwest corner of the site at the intersection of Dornan Drive and Brickyard Cove Road will serve as a public gathering space and a gateway to the park;
- a shoreline extension of the Bay Trail will provide direct bicycle and pedestrian access to the Waterfront Park and will connect with existing Bay Trail facilities in the Miller-Knox Regional Shoreline Park;
- a southern extension of Dornan Drive will connect the Dornan Drive/Brickyard Cove Road corridor to the park and shoreline;
- a pedestrian paseo and view corridor will connect Brickyard Cove Road to the park and shoreline through the center of the residential subdivision;
- a shoreline green belt that will function as a public open space corridor between the southern limits of the residential subdivision and the Bay Trail Shoreline Loop;
- an extension of the Bay Trail north of Brickyard Cove Road from its current terminus opposite the main Project entry to connect with the new Bay Trail Shoreline Loop at the Dornan Drive intersection; and
- ±30 additional on-street parking spaces along Brickyard Cove Road.

Planned Area (PA) Plan Amendment

Major Amendments to a previously approved Planned Area (PA) Plan must be considered by the City Council at a duly noticed public hearing, pursuant to Richmond Municipal Code (RMC) Section 15.04.810.070.B. A Planned Area Plan amendment is deemed major if it involves one or more of the following changes (RMC Section 15.04.810.070.B):

1. A change in the Planned Area District's boundary;
2. An increase or decrease in the number of dwelling units for the Planned Area District greater than the maximum, or less than the minimum, stated in the Planned Area Plan;
3. An increase or decrease in the floor area for any non-residential land use that results in the floor area exceeding the minimum or maximum stated in the Planned Area Plan by ten percent (10%) or more;
4. A change in land use or density that is likely to negatively impact or burden public facilities and utility infrastructure, as determined by the City Engineer;
5. A change in land use or density that is likely to negatively impact or burden circulation adjacent to the Planned Area District or to the overall major street system, as determined by the City Engineer; or
6. Any other proposed change(s) to the Planned Area Plan or the conditions of approval, which substantively alter one (1) or more of its components, as determined by the Zoning Administrator.

The applicant proposes a Major Amendment to the Planned Area Plan previously approved for the 2016 Project pursuant to RMC Article 15.04.810.070.B. The purpose of the amendment is to decrease the total number of dwelling units and modify the unit types previously approved for the PA (Planned Area) District at the project site. A public hearing before the Planning Commission (PC) for recommendation is required prior to City Council review (RMC Section 15.04.810.030.A). On November 21, 2022, the PC voted unanimously to recommend denial of the major amendment to the Planned Area Plan and Vesting Tentative Map as discussed below in the Planning Commission Recommendation Section.

Conditional Use Permit in the S (Shoreline) Overlay Zoning District

Per RMC Section 15.04.306.010, the purpose of the S (Shoreline Overlay) Zoning 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 is seeking a Conditional Use Permit to allow for residential and park uses within this overlay district. The S (Shoreline) Overlay Zoning District requires any use to obtain a conditional use permit to ensure appropriate protections for habitat, water quality, and public access. The project will also require approval from the San Francisco Bay Conservation and Development Commission (BCDC).

Subdivision Improvements and Landscaping

The Revised Project includes the construction of private streets and alleys within the subdivision which will range in width from 20 feet to 30 feet and will include traffic calming features such as 10-foot travel lanes, short, interconnected street sections, on-street

parking on the wider roadway segments, and raised crosswalks. The residential neighborhood will have two entries off Brickyard Cove Road. The pedestrian network serving the subdivision is designed to provide residents with access to the waterfront and the regional park lands. In addition to the elements of the waterfront park described above, the Revised Project will also be responsible for improvements to the Brickyard Cove Road frontage, the Dornan Drive extension, and Dornan Drive/Brickyard Cove Road intersection.

Conformance with Zoning Ordinance

The Revised Project is in a PA (Planned Area) and S (Shoreline) Overlay zoning districts. The Planned Area Plan is intended to specify its own development standards for the planned unit development when the design results in a superior design that what would be allowed under the base zoning district. Development of the subdivision would be consistent with the PA Plan as amended for this Revised Project. Therefore, the proposed subdivision is consistent with the Zoning Ordinance.

Pursuant to 15.04.306, uses and developments subject to an S (Shoreline Overlay) Zoning District shall obtain a Conditional Use Permit (CUP). The findings to approve a CUP are included in the draft Resolution in Attachment 1.

Other standards such as minimum lot size, setbacks, building height limits, and other development standards and similar regulations of the base zoning districts may be modified as part of an approved PA district. The development standards that would guide future development of the proposed PA District are included in the modified Planned Area Plan. Refer to Exhibit C (PA Plan Amendment) and Exhibit D (Development Guideline Modules) for a description of the development standards.

Development Standards in PA as compared to RM-1 Zoning District

Lot Size: The 154 lots range in size from 1,227 to 3,019 square feet; Applicant requests a modification of the minimum 5,000 square feet requirement.

Lot Width: The lots have a minimum width of 26-feet; Applicant requests a modification of the minimum 50-foot lot width requirement.

Setbacks: The Revised Project incorporates alley- and rear-loaded garages and hybrid frontages (where the homes do not have standard front and rear yards) together with reduced setbacks that do not meet the minimum front, rear, and side yard setbacks prescribed in the RM-1 zoning district (i.e., 10 feet, 20 feet, and 5 feet, respectively). The applicant requests a modification of the minimum front, rear, and side yard setback requirements to accommodate the reduced setbacks shown in the Site Plan. Refer to Sheet SP2 of Exhibit B.

Density: The RM-1 (Medium Density Multi-Family Residential) Zoning District allows for a density of 10 to 27 dwellings units per acre (du/acre). The Project has a density of 15

du/acre and meets this requirement.

Building Height: All the homes will be two- to three-story structures. Approximately 60 of the three-story homes will offer home buyers the option of including an open roof deck that would be accessed by way of an enclosed staircase. The maximum building height of the proposed residences that do not include the optional roof deck would be 37 feet. Where a proposed residence includes the optional roof deck, the Revised Project would allow the staircase enclosure which provides access to the roof deck to extend to a maximum height of 44 feet. The permitted height in the RM-1 zone is 35 feet. The Revised Project requests a modification for this requirement as part of the PA Plan amendment.

Maximum Lot Coverage: The maximum lot coverage allowed is 65 percent. The proposed lot coverages range from 70 to 80 percent. Therefore, the Revised Project requests a modification.

Common and Private Open Space: The RM-1 zone requires a minimum 75 SF of private and 100 SF of common open space per unit. The Revised Project proposes to conform to this requirement. Every home would have over 80 SF of private open space. Common open spaces beyond the required 100 SF per unit would also be provided within the subdivision, including a recreation building with swimming pool for residents of the subdivision. In addition, the Revised Project would create a new segment of the Bay Trail and enhance landscaping of city-owned property along Brickyard Cove Road and create a new public park and access to the shoreline.

Off-Street Parking: All residential units would have two-car garages, meeting the off-street parking requirement. Because the proposed new streets would limit on-street parking, guest parking is being provided in designated locations within the development at a ratio of one stall per 4.2 units.

Maximum Upper Story Massing (% of Ground Floor Footprint): The RM-1 zoning district sets forth a maximum upper story massing of 80% for the 3rd story and above. The applicant requests for the ability to have a 100% upper story massing for the 3rd story.

Inclusionary Zoning: The Revised Project would construct its inclusionary units on-site. Therefore, ten percent (10%) of the project units would be for-sale to households at the moderate-income level (up to 120% of Area Median Income). The City would require a regulatory agreement with the applicant to ensure these units remain affordable for up to 45 years.

Natural Gas Ban: The Revised Project would be all-electric and will not bring natural gas services to the subdivision.

Public Art: The applicant proposes to construct the 1% public art required as public art/ elements of historical relevance in the Gateway Plaza located adjacent to the retail node in the northwest corner of the site, and throughout the project site.

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 Vesting Tentative Map is shown in Exhibit E. The Vesting Tentative Map has been reviewed for compliance with applicable provisions of the City's Subdivision Ordinance (RMC 15.04.700, et seq.), and determined that it satisfies the requirements of the Richmond Subdivision Ordinance. A Vesting Tentative Map is processed in the same manner as a tentative 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.

GENERAL PLAN CONSISTENCY:

The Revised Project is consistent with the Medium Density Residential land use designation under the General Plan, as well as with applicable General Plan goals and policies. The following list highlights a selection of the General Plan goals and policies that the Revised Project supports or accomplishes:

- The Revised Project would meet future housing needs within City limits through infill development in an area already served by community facilities, utilities, and transportation systems. (Goal LU-K)

- The Revised Project would develop a new safe, high-quality, distinctive waterfront park along the shoreline and stabilize an existing wharf. (Goal PR2)

- The Revised Project would construct a new shoreline segment of the Bay Trail providing for an expanded multi-modal circulation system. (Goal CR1)

The project site is designated Medium Density Residential land use classification in the General Plan which provides for single and multi-family housing types, including garden apartments, bungalows, townhouses, and stacked flats. The PA Plan includes single family residences, duplexes, and junior accessory dwelling units and is consistent with other applicable goals in the General Plan (see policies LU4.1, CR1.6, and CN2.2) related to enhanced pedestrian and bicycle connectivity, enhanced access to the shoreline, and creation of new open areas. The project is compatible with development in the surrounding area.

Design Review

Major Design Review is required for the PA Plan Amendment. Per the PA Plan Amendment, the house plans, landscaping, lighting, and signage is subject to subsequent Design Review by the Design Review Board prior to construction and will be required to conform to the PA Plan Amendment and conditions of approval.

In general, the applicant proposes six (6) different house plans, each of which will have two (2) design style options (which reflect variations on a contemporary coastal

architectural theme), and nine (9) color scheme options. The house plans have been included for illustrative purposes only and to show the breakdown in unit types referenced in Sheet SP 1.2, Site Plan on the Project Plans in Exhibit B. Per the PA Plan Amendment, the house plans require subsequent design review.

DESIGN REVIEW BOARD RECOMMENDATION:

A public hearing to consider major design review for the PA Plan amendment was held on October 26, 2022, where the Board unanimously voted to recommend approval of the Major Design Review for the PA Plan Amendment (Site Plan – Alternative B) to the Planning Commission subject to additional conditions, see Exhibit F, Conditions No. 64-73. As part of the Design Review process, the Applicant presented two site plan options for the shoreline area: (1) Alternative A that presented a greenbelt along the Dornan Drive side and (2) Alternative B which is an extension of Dornan Drive that would provide access to the Wharf Park via a new cul-de-sac. The DRB recommended Alternative B.

Staff supports the DRB recommended Site Plan Alternative B. Both the DRB and the Fire Department confirm that accessibility to the park and emergency vehicle access were key considerations to their recommendation. The applicant prefers their presented Alternative A.

In addition, the DRB recommended 10 additional conditions of approval to the Project. The applicant objects to half of the conditions as noted in their Response to DRB Recommended Conditions of Approval, in Exhibit G.

Below is a summary of the five DRB-recommended conditions that the applicant objects to and requests that the Planning Commission consider recommending removal:

DRB Recommended Condition:	Applicant's Response:
1. The minimum bay trail setback from any house shall be a minimum of 12-feet.	The applicant objects to this condition because although it would increase the minimum bay trail setback by about 2 feet (from 10 feet to 12 feet), it would require a redesign of the site plan, which may result in the loss of two units, and impact the economic feasibility of the Project. The applicant worked with TRAC both to widen the bay trail corridor and increase the minimum setback of homes located adjacent to the bay trail to 10 feet. TRAC expressed their support for this effort and the resulting bay trail design and did not request this condition. Additionally, when reviewing the plans, this condition affects only 2 of the 154 residential units, which have a setback of about 10'-6" from the house to the bay trail.
2. The units in the middle of the	The applicant objects to this condition because it

project shall have a third story limited to 80% of the floor area below for 50% of these units.	would result not only result in a reduction in the square footage of the impacted homes, but also in the loss of a bedroom; would physically preclude construction of the Project as designed with the permitted density and development standards proposed by the Applicant; and would significantly impact the economic feasibility of the Project by reducing the home sale revenues required both to privately subsidize the 16 affordable units and to cover the costs involved in stabilizing the site, remediating the residual soil and groundwater contamination, structurally retrofitting the wharf, demolishing the lead paint-contaminated warehouse, mitigating for sea-level-rise, and building the public park and public access improvements. This condition affects 50% of the 64 units in the middle of the project, for a total of 32 units. Since the residential plans have a vertical floor plan design, and the primary living space is on the second story, the condition would remove approximately 207 SF from the third floor of the 32 units resulting in the loss of a bedroom. It should be noted that design review of the architectural plans for these homes has not been completed and that, to the extent the DRB has continuing concerns with third-floor massing, those concerns can be addressed when the Project comes back to the DRB for major design review of the house plans.
3. The bay trail retaining wall guard rail shall be hot-dipped galvanized vertical pickets.	The applicant objects to these conditions regarding the bay trail because these components have yet to be designed. Staff recommends that the Planning Commission amend these conditions to apply where feasible and applicable upon designing the details for the Bay Trail.
4. The bay trail retaining wall along the south shore and RYC lockers shall not exceed 6-feet in height.	
5. The bay trail retaining wall shall be a minimum of 3-feet away from the Richmond Yacht Club lockers and shall be maintained by the HOA with drainage to capture and divert water from the lockers.	

PLANNING COMMISSION RECOMMENDATION

On November 21, 2022, the Planning Commission held a public hearing to consider the Addendum to the EIR, Major Amendment to a Planned Area Plan with associated Design Review, Vesting Tentative Map, and CUP. Pursuant to Section 15.04.810.040, in approval of a major amendment to a Planned Area Plan, attached as Exhibit C**,** the Planning Commission recommended denial to the City Council as they could not make the following findings supported by statements of fact:

F. The proposed development is demonstratively superior to the development that could occur under the standards applicable to the underlying base district, and will achieve superior community design, environmental preservation and/or substantial public benefit. In making this determination, the following factors will be considered:

2. The mix of uses, housing types, and housing price levels.

<u>Staff Statement:</u> Criterion Not Satisfied. The Revised Project proposes 154 residential units (single family and duets), with 30 junior accessory dwelling units. This is roughly half the density of the Original Project, which was approved for 323 units, then revised to 316 units based on a settlement. The Planning Commission stated that the single-family and duets housing types were not appropriate for the site, and are not better than the multi-family units originally proposed.

4. Provision of infrastructure improvements.

<u>Staff Statement:</u> Criterion Not Satisfied. The Planning Commission determined that the Revised Project could not meet the infrastructure needs and improvements for the development and surrounding area.

Pursuant to Section 15.04.702.100 in approval of the Vesting Tentative Map attached as Exhibit E, the Planning Commission recommended denial to the City Council as they could not make the following finding:

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

<u>Statement of Fact:</u> *Criterion Not Satisfied.* The Planning Commission stated that the site is more suitable for a higher density project, consistent with the Original Project with 316 multi-family condominiums and townhomes. The Revised Project unit types of single family, duets and JADU's are a lower density project that are not suitable for the site.

If the Council selects option 3 in the recommended actions - to remand the project back to the Planning Commission to further study the financial feasibility of the original project and to explore revisions that can be incorporated into the project that could result in making it a superior project - this action would not require the Council to adopt a Resolution until the project returned to the City Council for final action on the PA Plan Amendment or entitlements. As part of its decision to remand the project back to the Planning Commission, the Council may suggest areas where improvements can be made

or issues to be addressed/explored for potential revisions to the project. In addition, some of the items raised by area neighbors such as the acceptance of the dedication of Brickyard Cove Road by the City may be incorporated into the final project design as community benefits or project design features.

Additionally, while the Council is aware of the economic issues which precluded the earlier project, that has not been shared in detail with the Planning Commission. Finally, if the Council refers to pages 2-3 above, the LDA has been amended so that the closing is not subject to the entitlement process and there is time to further consider refinements to make the project more superior as felt necessary by the Planning Commission.

PUBLIC NOTIFICATION AND COMMENTS:

In addition to the 300-foot mailing radius, notices were also mailed to property owners on Mallard Drive, Pelican Way, Sanderling Island and 1300 Quarry Court.

ENVIRONMENTAL REVIEW:

The City of Richmond (City), acting as Lead Agency, certified an Environmental Impact Report (EIR) (State Clearinghouse #2014112050), as part of the original approvals in 2016. The City has prepared an Addendum to the 2016 EIR to analyze the physical and environmental impacts associated with the proposed revisions to the original project, per the requirements of the California Environmental Quality Act (CEQA) statutes (Public Resources Code [PRC] Section 21000 et seq.) and the CEQA Guidelines (California Code of Regulations 15000 et seq.).

The 2016 EIR analyzed the impacts of development within the project site. The Revised Project would not result in substantial changes or involve new information not already analyzed in the 2016 EIR because the level of development now proposed for the site is within the development assumptions analyzed in the 2016–EIR. The Revised Project would not cause new significant impacts not previously identified in the 2016 EIR or result in a substantial increase in the severity of previously identified significant impacts. No new mitigation measures would be necessary to reduce significant impacts. No changes have occurred with respect to circumstances surrounding the project site that would cause new significant environmental impacts or a substantial increase in the severity of previously identified significant effects, and there is no substantial evidence in the record that shows that the Revised Project would cause any significant environmental impacts. Therefore, no supplemental environmental review is required in accordance with Public Resources Code Section 21166, and CEQA Guidelines Sections 15162 through 15164.

ADDENDUM TO THE FINAL EIR AND MMRP, PLANNED AREA PLAN AMENDMENT, DESIGN REVIEW, VESTING TENTATIVE MAP, AND CONDITIONAL USE PERMIT FINDINGS:

The City Council must adopt certain findings in adopting the Addendum to the Final EIR and MMRP, and approval of the Major Amendment to an approved Planned Area Plan with associated Design Review, Vesting Tentative Map, and Conditional Use Permit.

Statements of fact for supporting the required findings are contained in the draft Resolution in Attachment 1. The recommended conditions of approval for the proposed project are also contained in the Conditions of Approval (see as Exhibit F). The attached Resolution reflects Option 1 in the recommended actions. If option 2 is desired, the resolution findings would be modified to reflect the findings made by the Planning Commission as noted in the Planning Commission Recommendation Section of the report. If the Council chooses Option 3 to remand the project back to the Planning Commission, no resolution is required to be adopted for the project until it returns for final action.

DOCUMENTS ATTACHED:

Attachment 1: Draft Resolution No. ___ adopting an Addendum to Final EIR and Mitigation Monitoring and Reporting Program and approval of a Major Amendment to an Approved Planned Area Plan with associated Major Design Review, Vesting Tentative Map, and Conditional Use Permit, subject to conditions of approval.

Exhibit A: Addendum to Final EIR with Mitigation Monitoring and Reporting Program
Exhibit B: Project Plans
Exhibit C: PA Plan Amendment
Exhibit D: Development Guideline Module
Exhibit E: Vesting Tentative Map
Exhibit F: Conditions of Approval
Exhibit G: Applicant Responses to DRB Recommended Conditions of Approval