



AGENDA REPORT

City Attorney's Office

DATE:	May 7, 2024
TO:	Mayor Martinez and Members of the City Council
FROM:	Dave Aleshire, City Attorney
Subject:	Point Molate Mixed Use Project SEIR and Land Use Approvals
FINANCIAL IMPACT:	There is no fiscal impact related to adopting this Resolution.
PREVIOUS COUNCIL ACTION:	September 8 and 15, 2020
STATEMENT OF THE ISSUE:	<p>On or about September 8 and 15, 2020, the City Council adopted Resolution No. 97-20 and Ordinance Nos. 22-20 and 23-20, which together certified the Subsequent Environmental Impact Report (“SEIR”) in compliance with the California Environmental Quality Act (“CEQA”) and approved the land use approvals for the Point Molate Mixed Use Project. In October 2020, Point Molate Alliance, SPRAWLDEF, Citizens for East Shore Parks, North Coast Rivers Alliance, and numerous other community groups and individuals filed two related Petitions for Writ of Mandate challenging the City’s September 2020 certification of the Subsequent Environmental Impact Report (“SEIR”) and land use approvals for the Project. Following an appeal of an earlier judgement, the First District Court of Appeal issued a Final Opinion and Order Modifying Opinion and Denying Rehearing on November 27, 2023, with the directions to the Superior Court to issue a peremptory writ of mandate directing the City to set aside its certification of the final SEIR and related project approvals. In compliance with the Final Opinion and Order of the Court of Appeal, the Superior Court on</p>

	January 22, 2024, entered a new Judgment and Writ of Mandate directing the City as such.
RECOMMENDED ACTION:	ADOPT a Resolution 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 <i>North Coast Rivers Alliance, et al. v. City of Richmond, et al.</i> , Contra Costa County Superior Court Case No. N20-1528 (Consolidated With Case No. N20-1474) – City Attorney’s Office (Dave Aleshire 510-620-6509).

DISCUSSION:

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 Subsequent Environmental Impact Report (“SEIR”) in compliance with the California Environmental Quality Act (“CEQA”) and approved the land use approvals for the Point Molate Mixed Use Project (“Project”), consisting of a General Plan Amendment, Rezoning, Disposition and Development Agreement, 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 (PLN20-057).

In October 2020, Point Molate Alliance, SPRAWLDEF, Citizens for East Shore Parks, North Coast Rivers Alliance, and numerous other community groups and individuals filed two related Petitions for Writ of Mandate challenging the City’s September 2020 certification of the SEIR and land use approvals for the Project. Raising numerous claims and causes of act, the Petitions asserted causes of action asserting violations of CEQA.

The Contra Costa Superior Court, on March 15, 2022, entered Judgment Denying the Petitions for Writ of Mandate in full. Petitioners Point Molate Alliance and North Coast Rivers Alliance, et al., filed notices of appeal to the First District Court of Appeal on March 21 and 23, 2022, respectively (Case Nos. A164906 and A165758).

The First District Court of Appeal issued a Final Opinion and Order Modifying Opinion and Denying Rehearing on November 27, 2023, directing the trial court to enter a new judgment and issue a peremptory writ of mandate directing the City to set aside its certification of the final SEIR and related project approvals.

In compliance with the Opinion and Order of the Court of Appeal, the Superior Court on January 22, 2024, entered a new Judgment and Writ of Mandate ordering the City to:

1. Set aside and vacate its approvals of the Project, including Resolution No. 97-20 and Ordinance Nos. 22-20 and 23-20 adopted on September 8 and 15, 2020, respectively.

The Resolution and Ordinances can be accessed here:

<https://www.ci.richmond.ca.us/56/City-Clerks-Office>

2. Decertify the SEIR for the Project (SCH No. 2019070447) for the purpose of addressing the deficiencies identified in the Court of Appeal's Opinion; and
3. File a Return to the Writ within 120 days of the Judgment, which Return shall specify the action(s) taken to comply with the terms of the Writ.

The City has until Tuesday, May 21, 2024, to file a Return to Writ specifying the action(s) taken to comply with the terms of the Writ.

The proposed resolution is necessary to comply with the Writ of Mandate and would vacate and set aside the Resolution and Ordinances certifying the SEIR and granting the land use approvals for the Project.

NEXT STEPS:

If the Resolution is adopted, the City Attorney will file a Return to the Writ by May 21, 2024, specifying the action(s) taken by the City to comply with the terms of the Writ.

DOCUMENTS ATTACHED:

Attachment 1 – Resolution