



# AGENDA REPORT

Community Development

<b>DATE:</b>	May 5, 2026
<b>TO:</b>	Mayor Martinez and Members of the City Council
<b>FROM:</b>	Lina Velasco, Community Development Director Avery Stark, Planning Manager Shannon Moore, Interim City Attorney James Atencio, Senior Assistant City Attorney Eric S. Phillips, Burke, Williams & Sorensen, LLP
<b>Subject:</b>	Appeal of Planning Commission Conditional Approval of Marina Point Residential Project
<b>FINANCIAL IMPACT:</b>	There is no direct fiscal impact associated with the consideration of the appeals. However, modifications to the Conditions of Approval, particularly those related to infrastructure improvements, or compliance with State housing laws (including No Net Loss requirements), may have future financial implications for the applicant and/or the City, depending on City Council action.
<b>PREVIOUS COUNCIL ACTION:</b>	None.
<b>STATEMENT OF THE ISSUE:</b>	<p>On March 5, 2026, the Planning Commission voted to approve the Marina Point Residential Project (PLN23-117), subject to conditions. On March 12, two appeals were filed; therefore, the City Council is being asked to conduct a public hearing to consider the two appeals.</p> <p>Pursuant to Richmond Municipal Code (RMC) Section 15.04.803.140.E., the City Council will review whether the underlying decision by the Planning Commission is supported by substantial evidence and/or constitutes an abuse of discretion. The Council's role is to determine whether the Planning Commission erred in its decision based solely on the issues raised in the appeals, rather</p>

	<p>than to conduct a de novo review of the entire project or to consider issues not specifically raised in the petitions for appeal.</p> <p>The two appeals raise distinct but related issues, generally focused on:</p> <ul style="list-style-type: none"> <li>• Conditions of Approval related to landscaping and shoreline access improvements</li> <li>• Applicability and requirements associated with Junior Accessory Dwelling Units (JADUs)</li> <li>• Compliance with State housing law, including No Net Loss (Gov. Code § 65863)</li> <li>• Required fair share contributions toward off-site infrastructure improvements (signalization).</li> </ul>
<b>RECOMMENDED ACTION:</b>	<p>HOLD A PUBLIC HEARING to consider two appeals of the Planning Commission’s conditional approval of the Marina Point Residential Project (PLN23-117) and ADOPT a resolution Modifying the Conditions in response to the appeals and otherwise affirming the Planning Commission’s conditional approval - Community Development (Lina Velasco/Avery Stark 510-620-6714).</p>

**DISCUSSION:**

On March 5, 2026, the Planning Commission voted to approve the Marina Point Residential Project (PLN23-117), subject to conditions. On March 12, two appeals were filed; therefore, the City Council is being asked to conduct a public hearing to consider the two appeals of the Planning Commission’s decision to conditionally approve the Marina Point Residential Project, specifically with respect to the issues raised in the two petitions for appeal.

The Marina Point Residential Project proposes the development of 70 three-story single-family homes of which 30 would include a Junior Accessory Dwelling Unit (JADUs), on a 4.92 gross-acre site in the Marina Bay neighborhood. The project also proposes dedicating 10 percent of the units as deed-restricted moderate-income housing. The project entitlements include Design Review, Conditional Use Permit, and a Vesting Tentative Map.

**Standard of Review for Appeals**

Pursuant to (Richmond Municipal Code (RMC) Section 15.04.803.140.E., the City Council’s role is to evaluate whether the Planning Commission’s decision and the Planning Commission’s action is supported by substantial evidence and/or constitutes an abuse of discretion as it related to the issues raised in the two appeals, which are summarized below. Matters not raised in the appeals—including broader policy

considerations, California Environmental Quality Act (CEQA) determinations, or unrelated project components - are not within the scope of this hearing.

## **Summary of Appeals**

As noted above, two appeals were filed and the issues raised are summarized below.

### **Appeal A – Glen Powles, Applicant (see Attachment 4)**

The applicant’s appeal challenges specific Conditions of Approval, including:

1. **Landscaping and Shoreline Access Improvements**
  - Concern regarding scope, cost, and potential exposure to external regulatory processes (e.g., shoreline permitting)
  - Applicant requests refinement and clarification of requirements
2. **JADU-Related Requirements**
  - Disagreement with requirement to distribute or treat JADUs as amenities under inclusionary housing provisions
  - Applicant indicates intent to pursue Density Bonus concessions
3. **No Net Loss Compliance Contribution**
  - Objection to required undefined financial contribution toward analysis/study
  - Willingness to accept condition with defined cap
4. **Signalization / Infrastructure Contribution**
  - Applicant asserts lack of nexus or evidentiary support for required contribution

### **Appeal B – Bruce Beyaert, Trails for Richmond Action Committee (TRAC) Chair (see Attachment 5)**

The second appellant, on behalf of TRAC, raises concerns primarily related to shoreline access, public amenities, and consistency with the project as deemed complete. Specifically, the appeal asserts that:

1. **Adequacy of Shoreline Access and Public Improvements:**

The approved project includes a 50- to 60-foot-wide “open space” strip between the residential units and the San Francisco Bay Trail that is proposed as unimproved, lacking landscaping and public access amenities.
2. **Consistency with Deemed Complete Application (SB 330 Context):**

TRAC contends that the project application, deemed complete on June 12, 2023, included frontage landscaping and public access improvements in this area, and that the current approval omits those features. As such, the appeal argues that requiring such improvements would not constitute a new standard but rather ensure consistency with the baseline application materials.
3. **Sufficiency and Enforceability of Conditions of Approval:**

The Planning Commission adopted a condition requiring “best efforts” to

collaborate on an equitable solution for the frontage area. TRAC asserts this language is insufficient, non-binding, and lacks enforceable mechanisms to ensure that improvements are ultimately designed, permitted, and constructed.

4. **Avoidance of Shoreline Regulations (BCDC and Local Overlay):**

The appeal suggests that the absence of improvements may be driven by an effort to avoid triggering permitting requirements under the City's Shoreline Overlay District and/or San Francisco Bay Conservation and Development Commission jurisdiction, rather than a design constraint.

5. **Requested Remedy:**

TRAC requests that the City Council impose a condition requiring the Applicant to:

- (1) obtain any necessary Bay Conservation and Development Commission (BCDC) approvals,
- (2) design, install, and maintain landscaping and public access improvements within the shoreline frontage area, and
- (3) ensure such improvements are open and available for public use prior to occupancy.

## **Staff Analysis of Appeal Issues Raised**

The appeal issues raised can be summarized into four key areas. Each issue is summarized and a staff recommendation is provided below.

### **A. Shoreline Access and Landscaping**

Both appeals raise concerns regarding the adequacy of shoreline access, landscaping, and the enforceability of the Planning Commission's adopted Conditions of Approval with respect to the same (see Conditions of Approval 49 through 58). The record reflects that the currently approved project includes a frontage "open space" area between the residential development and the San Francisco Bay Trail; however, the level of improvement within this area is not fully specified and the adopted condition relies on "best efforts" language.

City staff acknowledges that:

- The current condition lacks sufficient objective performance standards and enforceability mechanisms; and
- The Project's proximity to the shoreline introduces potential jurisdictional considerations under the City's Shoreline Overlay District and external agencies, including but not limited to the San Francisco Bay Conservation and Development Commission.

At the same time, the City must:

- Avoid making independent determinations regarding external agency jurisdiction;

- Avoid imposing conditions that could trigger additional discretionary approvals or render the project infeasible under the Housing Accountability Act or SB 330 Housing Crisis Act; and
- Ensure that any condition is objective, enforceable, and proportionate.

The Applicant has indicated a willingness to prepare a refined frontage improvement exhibit and pursue post-entitlement design, subject to reasonable cost controls and regulatory constraints.

### **Staff Recommendation**

Staff recommend modifying the Conditions of Approval to require:

- Dedication of Parcel C to the City to expand shoreline access and the existing Lucretia Edwards Shoreline Park. Parcel C represents the shoreline band portion of the project site;
- Submittal of a detailed Shoreline Improvement Area Design Package for the 100-foot shoreline band (Parcel C), including landscaping, public access, and related improvements, subject to administrative review and approval by the Planning Manager; and
- Clarification that such approval is administrative in nature, does not constitute a separate entitlement, and is not subject to appeal.

The revised conditions also clarify that the City retains responsibility for obtaining any required third-party agency approvals. These modifications are intended to strengthen enforceability, provide greater clarity regarding shoreline improvements, and maintain consistency with applicable requirements of the Richmond Municipal Code and State housing law, while avoiding the introduction of additional discretionary approvals.

### **B. JADUs / Inclusionary Requirements**

The appeal raises concerns regarding the distribution and treatment of Junior Accessory Dwelling Units (JADUs) in relation to the City's inclusionary housing objectives.

Staff maintains that:

- The City's inclusionary framework under the Richmond Municipal Code is intended to ensure equitable distribution of affordable units and access to comparable amenities;
- The City may apply objective standards to ensure that affordable units are not concentrated, inferior in design, or functionally constrained, consistent with State law.

However:

- The Project is subject to the State Density Bonus Law, which entitles the Applicant to concessions, incentives, or waivers that limit the City's ability to impose certain requirements;
- Any conditions of approval must remain legally compliant if such concessions are granted.

### **Staff Recommendation**

- Recommend approval of the supplemental State Density Bonus Law concession request to provide relief from otherwise applicable statutes to the affordable housing ordinance.

### **C. No Net Loss (Gov. Code § 65863)**

The Project site is identified in the City's Housing Element inventory as accommodating a substantially higher number of units, particularly in the moderate-income category. Approval of the Project at a lower density introduces potential implications under No Net Loss Law.

Specifically:

- The City is required to ensure that approval of a project at a lower density than assumed in the Housing Element does not result in a shortfall of sites available to meet RHNA obligations;
- Failure to demonstrate compliance may expose the City to legal risk, including Housing Element noncompliance and potential enforcement actions; and
- The City may require the Applicant to assist in evaluating impacts where a project materially deviates from assumed site capacity.

### **Staff Recommendation**

- Maintain the requirement for a third-party, City-retained analysis evaluating consistency with No Net Loss requirements and identifying any necessary mitigation strategies;
- Clarify that the analysis shall be conducted under a cost-recovery agreement funded by the Applicant; and
- Allow the City Council to consider establishing a reasonable cost cap, provided that such cap does not impair the City's ability to complete a legally sufficient analysis.

### **D. Signalization / Fair Share Contribution**

The condition requiring a fair share contribution toward signalization improvements and related infrastructure must satisfy constitutional nexus and proportionality requirements under applicable case law.

Staff notes:

- The Project will generate additional vehicular and multimodal trips, contributing to cumulative impacts at nearby intersections and along key corridors;
- A fair share contribution is appropriate where it is roughly proportional to the Project's impact; however,
- The current condition would benefit from clearer articulation of nexus, proportionality, and timing.

### **Staff Recommendation**

City staff and the applicant have agreed that a \$25,000 contribution constitutes a reasonable fair share toward Richmond Wellness Trail Phase 2 improvements. City staff recommends approval.

### **5. Conclusion**

The appeals raise discrete issues related to Conditions of Approval rather than the fundamental entitlement of the project.

City staff recommend that the City Council find that the Planning Commission's approval was supported by substantial evidence and consistent with applicable laws, subject to the refinement of specific Conditions of Approval as outlined above.

### **SYNERGISTIC POLICIES:**

- Housing Element (2023–2031)
- General Plan – High Intensity Mixed-Use (HIMU)
- Inclusionary Housing Ordinance (RMC 15.04.603)
  - State Housing Laws, including:
    - Housing Accountability Act
    - Density Bonus Law
    - No Net Loss (Gov. Code § 65863)

### **DOCUMENTS ATTACHED:**

Attachment 1 – Planning Commission Staff Report  
Attachment 2 – Planning Commission Resolution  
Attachment 3 – Combined Project Plan Set  
Attachment 4 – Applicant Appeal (March 12, 2026)  
Attachment 5 – Trails For Richmond Action Committee Appeal (March 12, 2026)  
Attachment 6 – City Council Resolution