



*PLANNING COMMISSION*  
**STAFF REPORT**  
 PLN23-117

<b>TO:</b>	Planning Commission
<b>FROM:</b>	Community Development Department Avery Stark, Planning Manager
<b>SUBJECT:</b>	<b>Marina Point Residential Project (PLN23-117):</b> Public hearing to consider the Design Review, Vesting Tentative Map and Shoreline Overlay Conditional Use Permit for 70 new three-story single-family homes and 30 Junior Accessory Dwelling Units (JADUs) on a 4.92 gross-acre site in the Marina Bay neighborhood.
<b>LOCATION:</b>	Terminus of Marina Way South, APNs: 560-181-121
<b>GENERAL PLAN:</b>	HIMU — High Intensity Mixed-Use (Major Activity Center) & PR — Parks and Recreation
<b>ZONING:</b>	CM-5, Commercial Mixed-Use, Activity Center
<b>OVERLAY DISTRICT:</b>	-S, Shoreline Overlay District
<b>OWNER:</b>	Guardian Commercial Real Estate, LP - APN 560-181-121
<b>APPLICANT:</b>	Glen L Powles, Guardian Capital
<b>CEQA REVIEW:</b>	The Project qualifies for a Class 32 Infill Development Exemption (CEQA Guidelines §15332). Independent peer review by environmental consultants confirmed that the site is within city limits, less than five acres, consistent with the General Plan, not in a sensitive habitat area, and served by existing utilities.
<b>STAFF RECOMMENDATION:</b>	Staff provide no recommendation for approval or denial due to procedural limitations under the Permit Streamlining Act and SB 330. The Planning Commission should provide comments and determine whether it wishes to approve or deny the Project. Although deemed complete and consistent as a matter of law, staff's assessment of the project does not comply with the City's General Plan, Zoning Code, and Housing Element standards.

## **PROPOSAL:**

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The Project proposes the development of 70 new three-story single-family housing units and 30 junior accessory dwelling units (JADUs) on a vacant 4.92 gross-acre site (4.36 net-acres), resulting in a density of 16.06 dwelling units per acre. The site is within the Marina Bay neighborhood, formerly part of the Kaiser Richmond Shipyards. Of the 70 units, 10% (7 units) will be affordable to moderate-income households per RMC Section 15.04.603. This includes at least three units with a JADU. The Project includes a tot lot, communal open space, landscaped frontage areas, and pathways. The site is designated High Intensity Mixed-Use (HIMU) in the General Plan with a zoning of CM-5, Commercial Mixed-Use, Activity Center.

## **BACKGROUND:**

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On February 14, 2023, Guardian Capital submitted a preliminary application under SB 330. A formal application followed on April 27, 2023. The City issued an incompleteness letter on May 26, 2023, and the applicant resubmitted on June 12, 2023. The City failed to respond within 30 days of the application resubmittal identifying any missing submittal items rendering the application complete under the Permit Streamlining Act. The City also failed to issue a 30-day determination of inconsistency with the General Plan or Zoning Code, as required under SB 330, and therefore, the Project is deemed consistent with the general plan, zoning, and other local rules for purposes of review.

RMC Section 15.04.805.020 requires Major Design Review for projects that require a permit for new construction, are greater than 1,200 square feet in total floor area and more than 15 feet in height. The Project also requires a Tentative Map and a Conditional Use Permit due to it being located within the Shoreline Overlay District which requires Planning Commission approval. Therefore, the Design Review Board's decision will be in the form of a recommendation to the Planning Commission, which will consider all of the Project's entitlements.

### **Design Review Board Hearings**

Consistent with the limitations on public hearings imposed by Senate Bill 330, the Marina Point Residential Project was reviewed by the Design Review Board at two duly noticed public meetings on December 10, 2025, and January 14, 2026. At each meeting, the Design Review Board received presentations from staff and the applicant, considered public testimony, and provided comments limited to objective design standards, consistent with State law.

Following its review, the Design Review Board forwarded the Project to the Planning Commission with comments for consideration as part of the Commission's review of the Project's entitlements.

### **Limitations on Hearings**

California's Housing Crisis Act of 2019 (SB 330) was enacted to streamline housing development and address the Statewide housing shortage. It limits the number of public hearings that may be held on a housing project to no more than five, including those held by the Design Review Board and Planning Commission. This number also includes any City Council appeals. For the City to avoid violating the five-hearing limit, the Design Review Board was practically limited to one or two meetings on a housing project in order to preserve sufficient hearings for the Planning Commission and possible appeal to City Council.



**ZONING:**

The project site is located in the CM-5 (Commercial Mixed-Use, Activity Center) zoning district, which is intended to accommodate mid- to high-rise mixed-use development in major commercial and transit-accessible nodes. The CM-5 district is characterized by compact, pedestrian-oriented urban form, strong street frontages, and a mix of commercial, residential, office, entertainment, and civic uses. Residential development is permitted at densities ranging from 40 to 135 dwelling units per acre, with building heights allowed up to 135 feet (with transitional height limits adjacent to residential zoning districts). The table below compares the City requirements in the CM-5 zoning district specified in Richmond Municipal Code (RMC) Section 15.04.202.030 (Mixed-Use District Development Standards) against the proposed Project as follows:

Development Standard	Existing Condition	City Requirement	Project Proposal
<b>Lot and Density Standards</b>			
Minimum; Maximum Density (units/net acre)	n/a	40; 135 units/acre	consistent as a matter of law
Min. Lot Size (sq. ft.)	213,986	5,000	consistent as a matter of law
Min. Lot Width (ft.)		50	consistent as a matter of law
<b>Building Placement Standards</b> (Residential-only development is subject to the setback requirements of the RM2 District.)			
<b>Minimum Setbacks (ft.)</b>			
Front	n/a	20 (B)	consistent as a matter of law
Interior Side		5	consistent as a matter of law
Street side	n/a	7.5 (E)	consistent as a matter of law
Rear	n/a	20 (F)	consistent as a matter of law
Garage		20	consistent as a matter of law
Building Maximum Height (ft.)	n/a	135; 35 within 50 of a Residential district	consistent as a matter of law
Building Minimum Height (ft.)	n/a	22	consistent as a matter of law
Maximum Stories	n/a	12	consistent as a matter of law
Ground Floor Residential Uses (ft.)	n/a	12	consistent as a matter of law
<b>Landscaping and open space standards—mixed-use districts</b>			
Minimum Public Open Space (sq. ft. per unit)	n/a	200	consistent as a matter of law

Minimum Residential Private Open Space (sq. ft. per unit)	n/a	60	consistent as a matter of law
Minimum Amount of Landscaping (% of site)	n/a	15	consistent as a matter of law
Max. Lot Coverage	n/a	50 percent	consistent as a matter of law
Min. Parking Spaces	n/a	154	consistent as a matter of law
Bike Parking	n/a	No bicycle parking is required for single-unit dwellings.	consistent as a matter of law

### SHORELINE OVERLAY DISTRICT

The Project site is located within the –S, Shoreline Overlay District, established under RMC Section 15.04.306. The purpose of the Shoreline Overlay District is to implement General Plan policies related to shoreline protection, water quality, wildlife habitat conservation, and public access to the San Francisco Bay. The overlay district is intended to ensure that any development occurring within 100 feet of the shoreline, or within the designated public access zone extending from the ordinary high-water mark to the nearest arterial or public roadway, is designed and constructed in a manner that protects natural resources and provides appropriate shoreline access opportunities consistent with the General Plan.

Under RMC Section 15.04.306.030, all uses and developments within the Shoreline Overlay District must obtain a Conditional Use Permit (CUP) pursuant to Article 15.04.806. The applicant must demonstrate that the project meets all applicable shoreline protection, habitat, and public-access requirements. The CUP is subject to Planning Commission approval. RMC Section 15.04.306.040 provides detailed development standards that apply to all projects within the overlay zone, as follows:

RMC Section	Requirement Category	Summary of Regulation	Staff Analysis
15.04.306.010	Purpose	Implements shoreline policies; protects water quality, habitat, vegetation; ensures public access.	Project must show shoreline resource protection and public access as applicable.
15.04.306.020	Applicability	Applies to land within 100 ft of shoreline, tidelands, and public-access zone; more restrictive rules apply.	Overlay applies; more restrictive standards supersede CM-5 density/form where relevant.
15.04.306.030	Permit Requirements	All development in -S Overlay district requires a Conditional Use Permit.	CUP required; Planning Commission must review shoreline-specific compliance.
15.04.306.040(A)	Habitat Protection	Avoid sensitive habitat encroachment; avoid	Project must provide biological review and demonstrate habitat

		blocking wildlife movement; restrict seasonal access.	avoidance.
15.04.306.040(A)(1)	Buffers	Requires habitat buffers; 100-ft minimum tidal buffer from mean highest high water.	Project must map buffer and confirm compliance with 100-ft requirement.
15.04.306.040(A)(2)	Vegetation Protection	Avoid removing stabilizing vegetation; replant cleared areas with indigenous species.	Landscape plan must prioritize native vegetation and replanting where disturbed.
15.04.306.040(A)(3)	Freshwater Habitats	Preserve/replace freshwater habitats to maintain ecological function.	Applicant must confirm no freshwater habitat impacts or provide mitigation.
15.04.306.040(B)	Hazard Avoidance	Avoid hazards: liquefaction, slope failure, flooding, seismic risks.	Geotechnical documentation required for shoreline hazard risks.
15.04.306.040(C)	Mitigation	Commission may require mitigation for wetlands, fill, dredging impacts.	CUP may include additional environmental mitigation measures.
15.04.306.040(C)(1)	Wetland Protection	Mitigate wetland impacts to maintain habitat function.	Wetland avoidance/mitigation must be demonstrated.
15.04.306.040(C)(2)	Fill Restrictions	Fill allowed only if minimal, unavoidable, soils-safe, and BCDC-approved.	Project must confirm no fill proposed within BCDC jurisdiction.
15.04.306.040(C)(3)	Dredging Restrictions	Dredging allowed only under limited conditions with BCDC approval.	No dredging proposed; drainage must avoid tidal areas.
15.04.306.040(D)(1)	Site Planning	Design must harmonize with shoreline; maintain public access; avoid altering habitat.	Site plan must reflect shoreline-sensitive design and public path integration.
15.04.306.040(D)(2)(a)	Height	Heights near shore may be reduced to protect public views.	Applicant must analyze massing and view corridors.
15.04.306.040(D)(2)(b)	View Protection	Preserve Bay views from rights-of-way and public spaces.	Project must demonstrate no significant view obstruction.
15.04.306.040(D)(2)(c)	Clustering	Cluster buildings to preserve views and wildlife movement.	Site design must show clustering or view-corridor alignment.
15.04.306.040(E)	Signage	Shoreline access signage must meet BCDC guidelines and City code.	Signage plan must include BCDC-compliant public access signs.
15.04.306.040(F)	Allowable	Non-water-related	Project must confirm no

	Structures	structures prohibited in 100-ft tidal buffer; utilities underground.	encroachment and place utilities underground.
15.04.306.040(G)	Undeveloped Land	Maintain undeveloped areas to protect natural resources.	Open space must be preserved with native vegetation.
15.04.306.050(A)	Public Access	Access required for Bay Trail, subdivisions, shoreline-adjacent projects.	Project must evaluate and include vertical/lateral shoreline access.
15.04.306.050(B)	Access Design	Shoreline trails $\geq 5$ ft, $\leq 250$ ft spacing, 10-ft setback; Bay Trail standards apply.	Trail must meet Bay Trail and setback requirements.
15.04.306.050(C)	Staging Areas	Public access staging requires amenities, interpretive signage, lighting.	If staging area included, amenities must be integrated.
15.04.306.050(D)	Legal Instruments	Record Offer of Dedication, easement, deed restriction, or pay in-lieu fee.	Applicant must record required public access instrument before final map/CUP.

**GENERAL PLAN:**

The proposed Project as submitted is **not** consistent with the City’s General Plan, Housing Element, or adopted Housing Element Site Inventory. The General Plan designates the site as High-Intensity Mixed-Use (HIMU), which anticipates residential development at densities of up to 125 dwelling units per acre (du/ac). The implementing CM-5 zoning district requires residential development at a minimum of 40 du/ac and allows a maximum of 135 du/ac. The Project’s proposed density of 16.1 du/ac is substantially below the minimum required density and therefore, does not meet the General Plan’s intensity assumptions, the Zoning Ordinance’s objective development standards, or the density assumptions relied upon in the Housing Element’s Site Inventory.

However, due to a procedural error under SB 330, the project is deemed consistent as a matter of law. Under Government Code § 65943 and § 65905.5, the City was required to issue a written determination of consistency or inconsistency with the City’s General Plan and Zoning Code within 30 days of the application being deemed complete. The City did not provide this determination and did not identify the discrepancy between the General Plan’s maximum density (up to 135 du/ac) and the zoning district’s minimum density (40 du/ac), nor did it identify the project’s noncompliance with the minimum-density requirement and other objective design standards in the General Plan and Zoning Ordinance. Because the City did not issue the consistency determination letter, State law provides that the project is “deemed consistent, compliant, and in conformity” with applicable plans and zoning standards for purposes of application processing, regardless of its actual consistency. (Gov. Code § 65905.5(c)(1).)

This creates a procedural condition in which the Project must be processed as though it meets the City’s objective standards, even though the Project clearly does not meet the minimum residential density required by the General Plan, Zoning Ordinance, or Housing Element Site Inventory. In effect, not issuing the required SB 330 consistency determination prevents the City from asserting density-based inconsistency at this stage of review, even where such inconsistency exists.

This procedural limitation has significant implications for housing-law compliance. The site is one of the most important housing opportunity sites in the City's Housing Element, identified in the Site Inventory with a maximum capacity of 663 moderate-income units and a realistic capacity of 197 units. Developing the site at 16.1 du/ac, with only 7 moderate-income units being proposed, would under-utilize a designated high-capacity site and would conflict with the State's No Net Loss requirement (Gov. Code § 65863). Because the site contemplated 197 moderate-income units under the City's Housing Element, and only 7 are being proposed, there is a loss of 190 moderate-income housing units that will not be built. The City's Housing Element requires the City to plan for 638 moderate-income housing units during the 2023-2031 planning period, and 728 moderate-income housing units are planned throughout the City, which leaves a buffer of 90 surplus moderate-income housing units. However, even with the buffer of 90 moderate-income housing units, there will be a net loss of 100 moderate-income housing units that will no longer be built at the site, and there are no other contemplated sites in the City that have been identified at this time that can potentially include these units.

Because required findings to reduce the site's assumed capacity cannot be made and no alternative sites have been identified to offset the resulting capacity loss, approval of the project as proposed would place the City at risk of falling out of compliance with State Housing Element law.

In summary, while the project is deemed consistent for procedural purposes under SB 330 due to the City's failure to issue a timely consistency determination letter, the project is not actually consistent with the General Plan, Zoning Ordinance, Housing Element, or Site Inventory. This distinction is critical to understanding the City's legal obligations under the Permit Streamlining Act, SB 330, and State housing laws, as well as the procedural limitations placed on the Design Review Board and Planning Commission in reviewing the Project.

## **VESTING TENTATIVE MAP**

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The Project includes a Vesting Tentative Map submitted pursuant to the Subdivision Map Act (Government Code § 66410 et seq.) and RMC Chapter 15.04.704, to subdivide the approximately 4.92-acre project site into:

- 70 individual single-family residential lots for fee-simple ownership; and
- Five (5) commonly owned parcels to be owned and maintained by a Homeowners' Association (HOA), which will include private streets, utilities, common open space, landscaping, stormwater facilities, and other shared improvements.

Approval of the Vesting Tentative Map would establish the applicant's vested right to proceed with development in substantial conformance with the ordinances, policies, and standards in effect at the time the application was deemed complete, subject to applicable State law.

## **Regulatory Framework**

Vesting Tentative Maps are governed by the Subdivision Map Act and RMC Section 15.04.704, which require the Planning Commission to determine whether the proposed subdivision:

- Is consistent with applicable General Plan policies and Zoning regulations, to the extent permitted by State law;

- Makes adequate provision for infrastructure, including streets, utilities, drainage, and public services;
- Provides for safe and orderly circulation, including emergency vehicle access;
- Complies with lot design, access, and easement requirements; and
- Can be conditioned to address site-specific constraints, including shoreline, environmental, and infrastructure considerations.

### **Consistency with General Plan, Zoning, and Housing Element**

As discussed in the General Plan section of this report, the proposed subdivision density is not substantively consistent with the General Plan's High-Intensity Mixed-Use (HIMU) designation, CM-5 zoning district minimum density standards, or the Housing Element Site Inventory assumptions for this site.

However, due to the City's failure to issue a timely SB 330 consistency determination pursuant to Government Code §§ 65905.5 and 65943, the Project — including the proposed Vesting Tentative Map — is deemed consistent as a matter of law for purposes of processing. As a result, the City is procedurally constrained from denying the Vesting Tentative Map based on density, intensity, or Housing Element inconsistency, notwithstanding the Project's substantive nonconformance.

This deemed-consistent status applies to the subdivision configuration to the extent it reflects the Project as proposed and does not exempt the map from compliance with objective subdivision standards, infrastructure requirements, or shoreline overlay regulations.

### **Lot Design, Access, and Circulation**

The Vesting Tentative Map proposes:

- Residential lots that meet or exceed the minimum lot size and width standards applicable to residential development in the CM-5 zoning district, as applied through SB 330 procedural constraints;
- Two private internal streets providing vehicular access from Marina Way South, designed to meet Fire Department and Engineering standards;
- Adequate lot frontage, driveway access, and garage access for each residential unit; and
- Reciprocal access, utility, and drainage easements to ensure long-term functionality of the subdivision.

All streets within the subdivision are proposed as private streets, with maintenance responsibilities assigned to the HOA through recorded CC&Rs, subject to review and approval by the City Engineer and City Attorney.

### **Utilities, Drainage, and Infrastructure**

The Vesting Tentative Map demonstrates the ability to serve the subdivision with:

- Existing and proposed water, sanitary sewer, storm drainage, and utility infrastructure, subject to final engineering review;
- On-site stormwater treatment facilities designed to comply with Municipal Regional Permit (MRP) requirements, RMC Title 12, and Shoreline Overlay standards; and
- Easements necessary to accommodate public and private utilities, emergency access, and maintenance.

Final infrastructure design, stormwater management plans, and utility layouts will be reviewed at the improvement plan and final map stage.

### **Shoreline Overlay Considerations**

Because the Project site is located within the –S Shoreline Overlay District, approval of the Vesting Tentative Map is conditioned upon compliance with shoreline-specific requirements, including:

- Habitat protection and avoidance of sensitive shoreline areas;
- Public access and Bay Trail connectivity requirements;
- Shoreline setbacks, grading limitations, and erosion control measures; and
- Recordation of any required shoreline access easements or offers of dedication prior to recordation of the Final Map.

The Vesting Tentative Map does not, by itself, authorize development within shoreline buffer areas and must be implemented in conjunction with an approved Shoreline Overlay Conditional Use Permit.

### **Vesting and Conditions**

Approval of the Vesting Tentative Map would vest the applicant's right to proceed in substantial conformance with the approved map and applicable regulations in effect at the time the application was deemed complete, subject to:

- Conditions of approval imposed by the Planning Commission;
- Compliance with objective design standards and shoreline regulations;
- Approval of a Final Map consistent with the Vesting Tentative Map; and
- Compliance with all applicable State and federal requirements.

Failure to comply with conditions of approval or to timely record a Final Map may result in expiration of the Vesting Tentative Map pursuant to State law and RMC Section 15.04.704.

## **Staff Analysis**

Based on the information provided, the Vesting Tentative Map demonstrates that the site can be subdivided in a manner that provides adequate access, infrastructure, and services, and can be conditioned to meet applicable objective standards and shoreline requirements. While the subdivision reflects the Project's underlying density inconsistency with the General Plan and Housing Element, State law limits the City's discretion to deny the Vesting Tentative Map on that basis.

Accordingly, the Planning Commission's review of the Vesting Tentative Map is limited to determining whether the map complies with objective subdivision standards and whether appropriate conditions of approval can be imposed to ensure orderly development and regulatory compliance.

## **PROJECT ANALYSIS:**

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### **Design and Appearances**

The proposed residential development features a mix of five primary floor plans (Plans 1A, 2A, 3AX and 4A), each offered in three architectural styles that draw inspiration from nearby industrial structures, such as the Ford Assembly Plant. The homes would incorporate variations in color, material, and detailing to provide visual diversity across the site.

Exterior finishes would include combinations of stucco, fiber cement lap or board-and-batten siding, masonry veneer, and shingle roofs, expressed through coastal color palettes such as cream, beige, brown, gray, blue, and green tones. Each plan type integrates complementary material and color groupings to maintain a cohesive neighborhood character while avoiding monotony.

All units would be three stories in height, with a maximum roof elevation of 37 feet and 4 inches, consistent across the development. Typical building elevations and street frontages are illustrated in Exhibit A.

### **On-site Circulation**

Vehicular access to the project site would be provided via two proposed private streets off Marina Way South, one located within the cul-de-sac and one at the approximate midpoint of the Project site. Two internal streets and four drive aisles would be constructed on-site to provide circulation and vehicle access to all residential garages. The streets would be 24 feet wide, when adjacent to parking spaces. Driveways would also be constructed with a 24-foot width and would be accessible via curb cuts connecting into the proposed private streets.

### **Landscaping**

The Project would include approximately 53,710 square feet of landscaping, which would represent approximately 25 percent of the project site area (Exhibit B) and would exceed the required minimum of 10 percent of the project site being dedicated to landscaping, as established by RMC Section 15.04.607.060. Features proposed in the landscaping plan include a private community park, common areas, native coastal scrub vegetation along the coastline frontage of the project site, and a bioretention basin. Extensive landscaping would also be provided at the project's entrances on Marina Way South and the frontage to the Bay Trail and coastline. Landscaping, street furniture, signage, and lighting would be installed on pedestrian and vehicle routes on-site throughout the project site. The private community park, to be located near the central portion of the project site, would include play structures, picnic and barbeque facilities, and drought-tolerant turf. A 2.5-foot-tall retaining wall would be constructed on the eastern boundary of the project site.

Landscaping would include trees along the project frontages on Marina Way South and the Bay Trail, as well as along internal private streets and pedestrian paths. Trees would be selected from the City's adopted list of street trees, and would have sizes classified as either 15-gallon or 24-inch box. Shrubs and grasses used in the proposed project would have a volume of 1 to 5 gallons. Furthermore, ornamental ground cover and bioswale plants of 1-gallon volume would be used in bioretention areas and for erosion control.

### **Lighting**

Project lighting has been designed in accordance with RMC 15.04.604.050, ensuring illumination is directed downward and shielded to prevent light spillover onto adjacent properties.

### **Pedestrian Access**

Pedestrian access to the project site would be provided via existing sidewalks on Marina Way South, which would connect to sidewalks proposed on-site as well as to the Bay Trail along the Project's southern boundary.

### **Parking**

The proposed project would provide 154 total parking spaces on-site. Each single-family residence would include two garage parking spaces, totaling 140 garage parking spaces. An additional 14 surface parking spaces would be provided adjacent to the proposed internal streets and would consist of 10 regular visitor parking spaces, two Americans with Disabilities Act (ADA) visitor parking spaces, and two EV charging capable parking spaces. In addition, the site plan proposed to provide 13 parking spaces on Marina Way South, adjacent to the project site; however, the City is not in agreement with this proposal since the spaces would conflict with the planned Richmond Wellness Trial phase 2 project. Given the spaces are proposed on City right-of-way, the City is not obligated to allow these spaces to be constructed.

### **Site Grading and Retaining Walls**

Approximately 11,300 cubic yards of cut materials resulting from site grading would be redistributed on-site as fill material. No cut materials would be exported off-site and no additional materials are required to be imported to carry out site grading. The general intent of the grading plan is to level out the site to create the building pads.

### **Tentative Map**

The project includes a vesting tentative map to allow subdivision of the project parcel into 70 single-family lots for individual ownership and five commonly held parcels to be owned and managed by the Home Owner's Association. Vesting Tentative Maps are regulated by RMC Section 15.04.704.

### **Inclusionary Housing Ordinance**

The Project is required to designate a minimum of ten percent of total units as "affordable", pursuant to RMC Section 15.04.603.040. The applicant has agreed to set aside seven units in the moderate-income affordability category, defined as households earning between 80 percent and 120 percent of the area median income (for a 4-person household in Contra Costa County this means earning between \$125,050 and \$159,800 annually), and to designate those units as such by deed restriction. Three of the seven units will also include a JADU. At this time, it is not known which units will be designated as affordable. The remaining 63 units would be sold at market rate. From the exterior, the affordable units would be indistinguishable from the market-rate units, would be representative of the mix of unit sizes

provided in the market-rate units, and the households in the affordable units would have access to all community amenity spaces.

### **Public Art Requirement**

RMC Section 6.50.030 requires all new residential development consisting of ten or more units to comply with the City's Public Art Policies and Procedures. This requirement may be satisfied by one of three methods: the project may include a public art installation valued at one percent of building development cost; it may pay an in-lieu fee equal to one percent of building development cost to the City's Public Art Projects Account; or it may designate an on-site public art space by special process, pursuant to RMC Section 6.50.030(d). The Project applicant will elect prior to building permit submittal.

### **ENVIRONMENTAL REVIEW:**

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An Environmental Initial Study and Consistency Checklist was prepared for the Project by FirstCarbon Solutions, dated July 13, 2020. Based on this analysis, the proposed project is found to be in conformance with the analysis and conclusions of the City of Richmond General Plan 2030 Final Environmental Impact Report (FEIR), State Clearinghouse No. 2008022018. The General Plan FEIR adequately anticipated and analyzed the types of impacts associated with the proposed project. Consistent with the mandates in CEQA Guidelines §§ 15162 and 15168, no further environmental review is required, based on the following findings:

1. There are no substantial changes to the proposed project that would require major revisions to the General Plan 2030 FEIR.
2. There are no substantial changes in circumstances under which the project would be undertaken that would require major revisions to the General Plan FEIR.
3. There is no new information of substantial importance, not known and not reasonably knowable at the time the General Plan FEIR was certified, that would show new or more severe environmental impacts than previously analyzed.
4. There are no mitigation measures or project alternatives that would substantially reduce project impacts but that the project proponent declines to adopt.

The Environmental Checklist included as Exhibit B provides substantial evidence demonstrating that the proposed project is within the scope of the General Plan FEIR. As such, no additional environmental documentation is required beyond the Environmental Checklist, which serves the function of an Addendum under CEQA Guidelines § 15164.

In addition to tiering from the General Plan FEIR, the proposed project also qualifies for a Class 32 Infill Development Categorical Exemption (CEQA Guidelines § 15332). The site is located within city limits, is less than five acres, is surrounded by existing urban development, has no value as habitat for endangered, rare, or threatened species, and can be adequately served by existing public utilities and services. Independent environmental peer review confirmed that the project meets all eligibility criteria for the Class 32 exemption and does not trigger any of the exceptions under CEQA Guidelines § 15300.2 related to cumulative impacts, unusual circumstances, scenic highways, hazardous waste sites, or other potential significant effects.

Pursuant to CEQA Guidelines § 15094, a Notice of Exemption/Determination may be filed following project approval, indicating that the project is eligible for an exemption from additional environmental review. All applicable General Plan policies, General Plan FEIR mitigation measures, and standard

City policies and Municipal Code requirements have been incorporated into the project or are included as part of Exhibit F: ensuring that the project will not result in new or more severe significant environmental impacts.

### **PUBLIC COMMENT, NEIGHBORHOOD COUNCIL:**

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As of the publication of this report, the City has not received any public comment letters from the Marina Bay Neighborhood Council nor from any other members of the public.

### **DESIGN REVIEW FINDINGS:**

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Pursuant to RMC Section 15.04.805.050, the Design Review Board must make findings supported by statements of fact prior to recommending approval of a Design Review Permit. Due to the procedural limitations imposed by SB 330, the Board's review was limited to objective design standards. The Shoreline Overlay imposes non-discretionary, objective environmental and public-access standards that the project must satisfy through its required Conditional Use Permit. The project's consistency with the applicable findings is discussed below.

#### ***A. The General Plan and any applicable specific plans;***

As discussed in the General Plan and Zoning sections of this report, the proposed project as submitted is not actually consistent with the General Plan's HIMU land use intensity, its minimum density assumptions, or the Housing Element Site Inventory. The project's proposed density of 16.1 du/ac is below the minimum 40 du/ac required by CM-5 and below the General Plan's anticipated intensity for the site.

However, due to the City's failure to issue the required SB 330 30-day consistency/inconsistency determination, the project is "deemed consistent" for procedural purposes under Government Code § 65905.5(c). This deemed-consistent status does not change the substantive density inconsistency; it only limits the City's ability to reject the project on this basis during processing.

Accordingly, the DRB acknowledged the project's procedural deemed-consistent status. The Design Review Board's scope was therefore limited to evaluating the objective design characteristics of the project and whether the project satisfies the City's adopted objective design standards, notwithstanding the underlying density inconsistency.

Because the project site falls within the -S overlay, consistency with the General Plan, Zoning, and Overlay purposes must include a Shoreline Overlay analysis and eventual Use Permit review under Article 15.04.806.

Thus, while the base zoning and design standards provide a framework for the project's design, the Shoreline Overlay establishes additional, potentially more restrictive requirements which must be addressed through the project's use permit review process.

#### ***B. Any applicable design guidelines;***

The project is subject to the objective design standards of RMC Section 15.04.202.030 and other applicable sections of the Zoning Ordinance. Staff's review is limited to objective, quantifiable design

requirements, consistent with SB 330’s limitations on the use of subjective design criteria. Based on review of the submitted plans, the project generally meets applicable objective standards regarding:

- Minimum landscaping percentages
- Required façade articulation and material variation
- Window and door placement on street-facing elevations
- Pedestrian-scale lighting
- Street trees and frontage improvements
- Minimum sidewalk widths (5-foot on-site walkways meet the 4.5-foot minimum in RMC 15.04.710.040(B))
- Building height and massing limitations for residential construction in this subarea
- Requirements for articulation, façade modulation, and material transitions

Any remaining design observations or preferences that are subjective may be framed by the DRB as comments rather than requirements.

Objective design standards related to shoreline access, public views, building height profiles, lighting, materials, and habitat-sensitive landscaping have been incorporated into the project's evaluation.

**C. Any approved Tentative Map, Use Permit, Variance, or other Planning or Zoning approval that the project requires;**

The project includes a Vesting Tentative Map and a Conditional Use Permit, each of which is subject to review and final action by the Planning Commission. The Design Review Board’s authority was limited to design review and providing a recommendation to the Commission. The Board’s evaluation does not constitute approval of any entitlement and must remain focused on objective design standard compliance.

**D. The design review criteria in RMC Section 15.04.805.04:**

The following design review criteria apply to the project to the extent they rely on objective design standards.

The project must satisfy the following criteria to the extent applicable.	Criteria Met?
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.	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
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.	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

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.	<b>Yes</b> <input type="checkbox"/> <b>No</b> <input checked="" type="checkbox"/>
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.	<b>Yes</b> <input type="checkbox"/> <b>No</b> <input checked="" type="checkbox"/>
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.	<b>Yes</b> <input type="checkbox"/> <b>No</b> <input checked="" type="checkbox"/>
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.	<b>Yes</b> <input type="checkbox"/> <b>No</b> <input checked="" type="checkbox"/>

*A. Overall design (scale, massing, site plan, exterior design, landscaping)*

The project’s scale, massing, roof forms, articulation, building materials, and landscape plan generally conform to objective design standards in the Richmond Municipal Code. Architectural elevations incorporate required façade modulation, recessed entries, balcony elements, and varied materials consistent with objective design requirements.

*B. Relationship to surrounding neighborhood context*

The surrounding Marina Bay area includes a mix of multifamily and attached residential structures. The proposed three-story buildings fall within the range of existing residential building heights in the area. Setbacks, building placement, and façade treatments meet applicable objective design standards intended to maintain compatibility with nearby development.

*C. Internal consistency of materials, signage, and landscaping*

The project uses a consistent palette of exterior materials and colors. Facade detailing, window trim, rooflines, and material transitions are uniformly applied across building types. Landscaping is designed to meet objective requirements and is compatible with the architectural character of the buildings.

*D. Lighting and glare*

Lighting fixtures are required to comply with RMC 15.04.604.050 and shall be fully shielded and directed downward. Draft Condition of Approval No. 8 ensures compliance with objective lighting standards and mitigates the potential for glare or spillover.

*E. Public safety and security*

Residential units facing internal streets and walkways provide passive surveillance consistent with Crime Prevention Through Environmental Design (CPTED) principles. Site layout, pedestrian visibility, and lighting meet objective safety standards.

*F. Landscaping compatibility*

Proposed landscaping meets the City's objective landscape requirements and provides street trees, shrubs, and bioretention plantings that enhance building character and soften the streetscape. The proposed species palette avoids conflicts with lighting, signage, and visibility.

**CONCLUSION:**

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While the project's density and land use characteristics are not actually consistent with the General Plan or CM-5 zoning district, the project is procedurally deemed consistent under SB 330 for purposes of processing and evaluating. Therefore, the Planning Commission's authority is limited to determining whether the project meets the City's objective standards. Based on staff's review, the project generally complies with applicable objective design requirements, and any remaining issues may be addressed through conditions of approval or Board comments.

**RECOMMENDATION:**

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Staff provides no recommendation for approval or denial due to procedural limitations under the SB 330. The Planning Commission should provide comments and determine whether it wishes to recommend approval or denial of the Project. Although deemed consistent as a matter of operational law, staff has determined that the project does not comply with the City's General Plan, Zoning Code, and Housing Element standards. In making its recommendation to the Planning Commission, staff recommends the following conditions of approval be added to the Project in Resolution No. 26-03.

**DOCUMENTS ATTACHED:**

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- Attachment 1: PC Resolution No. 26-03
- Attachment 2: Combined Project Architectural, Landscape, Vesting Tentative Map Plans
- Attachment 3: Preliminary Geotechnical Study
- Attachment 4: Environmental Initial Study and Consistency Checklist

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**Appealing the Decision of the Planning Commission:**

*Decisions of the Planning Commission on permits and related approvals may be appealed to the City Council only after exhaustion of all other administrative remedies by filing a written appeal with the City Clerk. Unless otherwise specified in State or Federal law, all appeals must be filed in writing within ten days of the date of the action, decision, motion, or resolution from which the action is taken. See RMC Section 15.04.803.140 for details.*

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