

CITY COUNCIL RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND MODIFIING THE CONDITIONS OF APPROVAL IN RESPONSE TO THE APPEALS REGARDING PLANNING APPLICATION PLN23-117 AND OTHERWISE AFFIRMING THE PLANNING COMMISSION'S APPROVAL OF THE DESIGN REVIEW, VESTING TENTATIVE MAP, AND SHORELINE OVERLAY CONDITIONAL USE PERMIT (PLN23-117) FOR THE MARINA POINT RESIDENTIAL PROJECT FOR THE DEVELOPMENT OF 70 THREE-STORY SINGLE-FAMILY HOMES AND 30 JUNIOR ACCESSORY DWELLING UNITS (JADUs) LOCATED AT THE TERMINUS OF MARINA WAY SOUTH (APN 560-181-121).

WHEREAS, on April 27, 2023, Glen L. Powles, on behalf of Guardian Commercial Real Estate, LP (the "Applicant"), submitted Planning Application No. PLN23-117 requesting approval of a Design Review Permit, Vesting Tentative Map, and Conditional Use Permit for a residential subdivision consisting of 70 three-story single-family homes and 30 junior accessory dwelling units (JADUs) on approximately 4.92 gross acres located at the terminus of Marina Way South in the Marina Bay neighborhood (APNs 560-181-121) (the "Project"); and

WHEREAS, the Project site is designated High-Intensity Mixed-Use (HIMU) and Parks and Recreation (PR) under the Richmond General Plan and is zoned CM-5 (Commercial Mixed-Use, Activity Center) with a –S Shoreline Overlay District; and

WHEREAS, the Project requires approval of a Major Design Review Permit pursuant to Richmond Municipal Code (RMC) Section 15.04.805, a Vesting Tentative Map pursuant to RMC Chapter 15.04.704, and a Conditional Use Permit pursuant to RMC Sections 15.04.306 and 15.04.806 due to its location within the Shoreline Overlay District; and

WHEREAS, the Applicant submitted a preliminary application pursuant to Senate Bill 330 on February 14, 2023, and the City did not issue a written determination of consistency or inconsistency with the General Plan or Zoning Ordinance within the timeframes required under Government Code Sections 65905.5 and 65943; and

WHEREAS, as a result of the City's failure to issue a timely SB 330 consistency determination, the Project is deemed consistent, compliant, and in conformity with applicable General Plan and Zoning standards for purposes of application processing, notwithstanding substantive inconsistencies with minimum residential density assumptions; and

WHEREAS, pursuant to the Permit Streamlining Act and SB 330, the City's discretion in reviewing the Project is limited to the application of objective standards and the number of public hearings on the Project is capped by State law; and

WHEREAS, the Project proposes a residential density of approximately 16.1 dwelling units per acre, which is below the minimum density anticipated by the General Plan, CM-5 zoning district, and Housing Element Site Inventory, but which the City is procedurally constrained from denying on that basis due to SB 330; and

WHEREAS, the Project is subject to the City's Inclusionary Housing Ordinance (RMC Article 15.04.603) and proposes seven moderate-income affordable units, to be secured by recorded deed restriction; and

WHEREAS, the Project includes a Vesting Tentative Map creating 70 residential lots and five commonly owned parcels, with shared infrastructure and common open space to be maintained by a homeowners' association; and

WHEREAS, the Project is located within the –S Shoreline Overlay District and is therefore subject to shoreline protection, habitat conservation, public access, and water-quality standards set forth in RMC Section 15.04.306; and

WHEREAS, the Project includes a Vesting Tentative Map submitted pursuant to the Subdivision Map Act and Richmond Municipal Code (RMC) Chapter 15.04.704 to subdivide the project site into 70 single-family residential lots and five (5) commonly owned parcels to be owned and maintained by a Homeowners' Association for private streets, utilities, stormwater facilities, and common open space; and

WHEREAS, due to the City's failure to issue a timely SB 330 consistency determination, the Vesting Tentative Map is deemed consistent as a matter of law for purposes of processing, and the City's review authority is limited to compliance with objective subdivision and infrastructure standards; and

WHEREAS, the Project was reviewed by the Design Review Board at two duly noticed public hearings, during which the Board considered the Project's compliance with applicable objective design standards and provided comments for consideration by the Planning Commission, consistent with the limitations on public hearings set forth in Senate Bill 330; and

WHEREAS, the Planning Commission has reviewed the Project for compliance with applicable objective design standards, shoreline overlay requirements, subdivision regulations, and conditions of approval necessary to ensure consistency with adopted municipal regulations to the extent permitted by State law; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing in accordance with Government Code Section 65090 and RMC Title 15, and considered the staff report, exhibits, and all written and oral testimony presented in connection with the Project; and

WHEREAS, the Planning Commission found that, due to procedural limitations imposed by SB 330, its action on the Project must be based on compliance with

objective standards, required findings for Design Review, Vesting Tentative Map, and Conditional Use Permit approval; and

WHEREAS, the Planning Commission found that the Project qualifies for a Class 32 Infill Development Categorical Exemption pursuant to CEQA Guidelines Section 15332 and is also within the scope of the City of Richmond General Plan 2030 Final Environmental Impact Report (State Clearinghouse No. 2008022018), and no exceptions to the use of the exemption apply; and

WHEREAS, on February 5, 2026, the Planning Commission adopted Resolution No. 24-06 approving the Design Review Permit, Vesting Tentative Map, and Shoreline Overlay Conditional Use Permit for the Marina Point Residential Project (PLN23-117) and finding the Project exempt from CEQA; and

WHEREAS, two timely appeals of the Planning Commission's action were filed in accordance with the Richmond Municipal Code; and

WHEREAS, the City Council is the appropriate appellate body to consider such appeals pursuant to RMC Title 15; and

WHEREAS, the Appellants, including the Applicant, have engaged in good-faith discussions and have reached agreement on amended project conditions and clarifications intended to resolve the issues raised in the appeals; and

WHEREAS, the Applicant has augmented its development application to include incentives and concessions pursuant to the State Density Bonus Law (Gov. Code Sec. 65915), which law entitles the Project to relief from otherwise-applicable standards in the City's Inclusionary Housing Ordinance; and

WHEREAS, the City Council has independently reviewed the entire administrative record, including the Planning Commission staff report, PC Resolution No. 24-06, the appeals, all supporting documentation, and all written and oral testimony presented at a duly noticed public hearing; and

WHEREAS, pursuant to Senate Bill 330 and the Permit Streamlining Act, the City's review authority is limited to objective standards and applicable findings; and

WHEREAS, the City Council finds that the amended Conditions of Approval, attached hereto as Exhibit A, address the issues raised in the appeals and resolves the outstanding matters addressed in the agenda report; and

WHEREAS, the Project is exempt from further environmental review pursuant to CEQA Guidelines Section 15332 (Class 32 Infill Development) and is within the scope of the Richmond General Plan 2030 EIR; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Richmond does hereby:

Section 1. Acceptance of Appeals

The City Council hereby accepts jurisdiction over and considers the appeals of Planning Commission Resolution No. 24-06.

Section 2. Approval of Appeals

The City Council hereby **grants the appeals** to modify the Conditions of Approval adopted by the Planning Commission and finds that the revised Conditions of Approval will resolve the issues raised by the Appellants and ensure compliance with applicable local and State laws and objective standards.

Section 3. Superseding Action

Planning Commission Resolution No. 24-06 is hereby **superseded in its entirety** by this Resolution.

Section 4. Findings

1. Design Review Findings

The City Council makes the following required findings pursuant to RMC Section 15.04.805.050, finding that the project is consistent with:

A. The General Plan and any applicable specific plans;

As discussed in the General Plan and Zoning sections of the Planning Commission Agenda 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 City must acknowledge the project's procedural deemed-consistent status. The City's scope is 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 approval by the Planning Commission. The Design Review is consistent with the proposed subdivision and shoreline overlay.

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.

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

2. Vesting Tentative Map Findings

The City Council makes the following required findings pursuant to RMC Section 15.04.702.100:

A. *Consistency.* *The proposed subdivision, together with the provisions for its design and improvement, is consistent with the General Plan, any applicable specific plan, the Zoning Ordinance, and other applicable provisions of the City's Municipal Code.*

Statement of Fact: Pursuant to State Law, due to the City's failure to provide an SB330 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. The project is also seeking a density bonus for the purposes of obtaining specific waivers from objective design standards and other city requirements to make the project financially feasible.

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

Statement of Fact: The project site is a 4.92-acre infill site within an urbanized area, currently vacant and previously disturbed, and is physically suitable for residential subdivision, including the proposed lot configuration, internal circulation, and associated improvements. The site is served by existing infrastructure and is capable of supporting the proposed development, including required shoreline setbacks, drainage improvements, and public access features.

C. *No Environmental Damage.* *The proposed subdivision, together with the provisions for its design and improvement, are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat, unless an Environmental Impact Report (EIR) was prepared and a finding was made that specific economic, social, or other considerations make the mitigation measures or project alternatives infeasible, pursuant to Section 21081(a)(3) of the Public Resources Code.*

Statement of Fact: The proposed subdivision is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat, as the project is consistent with the City of Richmond General Plan Final Environmental Impact Report and qualifies for a Class 32 Infill Development Exemption (CEQA Guidelines §15332). The project site is located within city limits, is less than five acres, is not habitat for endangered or sensitive species, and will implement conditions of approval requiring stormwater management, shoreline habitat protection, and construction best management practices

D. Public Health Problems. *The proposed subdivision, together with the provisions for its design and improvement, is not likely to cause serious public health problems.*

Statement of Fact: *The proposed subdivision will be for 70 single-family homes and 30 JADU; therefore, will not cause or create any serious public health problems.*

E. No Conflict with Easements. *The proposed subdivision, together with the provisions for its design and improvement, will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision. The City may approve a map if it finds that alternate easements for access or for use will be provided and that these easements will be substantially equivalent to ones previously acquired by the public.*

Statement of Fact: The proposed subdivision will not conflict with any established easements.

F. Availability of Water. *Water will be available and sufficient to serve a proposed subdivision with more than 500 dwelling units in accordance with Section 66473.7 of the Subdivision Map Act.*

Statement of Fact: The proposed subdivision will have significantly less than 500 units; therefore, does not require the preparation of a water supply assessment. The project site is also served by potable water provided by the East Bay Municipal Utility District (EBMUD).

3. Conditional Use Permit Findings

The City Council makes the following required findings pursuant to RMC Section 15.04.806.040:

- A. The location of the proposed conditional use is in accordance with the General Plan and any applicable specific plan and the land use designations for the project site;*

Statement of Fact: The proposed use, as conditioned, is consistent with the General Plan and Shoreline Overlay District policies, including shoreline protection, public access, and habitat conservation, and is deemed consistent for purposes of permit processing pursuant to Government Code Sections 65943 and 65905.5(c)(1).

B. The location, size, design, and operating characteristics of the proposed use will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood;

Statement of Fact: The location, size, design, and operating characteristics of the proposed use, including site planning, building placement, and landscaping, are compatible with the shoreline environment and surrounding development, and will not adversely affect public access, Bay views, or the ecological function of adjacent shoreline areas, as conditioned to comply with shoreline design and access standards.

C. The proposed use will not create any nuisances arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding ambient conditions;

Statement of Fact: The proposed use will not create nuisances or environmental impacts affecting the shoreline, including impacts from light, noise, runoff, or pollutants, as the project is required to implement stormwater treatment, shielded lighting, and construction best management practices to protect water quality and habitat consistent with the Shoreline Overlay District.

D. The proposed use complies with all applicable provisions of Article XV; and

Statement of Fact: The proposed use, as conditioned, complies with all applicable provisions of Article XV, including the Shoreline Overlay District (RMC Section 15.04.306), by requiring:

- Protection of sensitive habitat and maintenance of shoreline buffers;
- Use of native, non-invasive, and salt-tolerant landscaping;
- Provision of shoreline public access, including connections to the Bay Trail; and
- Compliance with all applicable local, state, and federal shoreline regulations.

The project, as conditioned, provides for and preserves shoreline public access and protects natural resources, including compliance with Bay Trail connectivity, required easements, and habitat protection measures consistent with the Shoreline Overlay District and applicable regulatory requirements. The project is also seeking a Density Bonus for the purposes of obtaining concessions from City objective design standards.

E. The site of the proposed use is adequately served by highways, streets, water, sewer, and other public facilities and services.

Statement of Fact: The site is adequately served by public facilities and services in a manner that supports shoreline access and protection, including stormwater management systems designed to prevent discharge to the Bay, required infrastructure improvements, and emergency access.

Section 5. CEQA Compliance

The City Council hereby finds that the Project is exempt from further environmental review pursuant to CEQA Guidelines Section 15332 (Class 32 Infill Development) and none of the exceptions to the exemption are present. In addition, as a separate and independent basis to comply with CEQA, the City Council finds that the Project is within the scope of the Richmond General Plan 2030 EIR and no circumstances requiring subsequent or supplemental environmental review have occurred or are present. Therefore, CEQA does not require additional environmental review.

Section 6. Project Approval

Pursuant to the above made findings, the City Council hereby **approves** the Design Review Permit, Vesting Tentative Map, and Conditional Use Permit for the Marina Point Residential Project (PLN23-117), subject to the revised **Conditions of Approval attached as Exhibit A**, which replace and supersede the Planning Commission’s conditions.

Section 7. Effective Date

This Resolution shall take effect immediately upon adoption.

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

- AYES:
- NOES:
- ABSTENTIONS:
- ABSENT:

CLERK OF THE CITY OF RICHMOND

(SEAL)

Approved:

Mayor

Approved as to form:

City Attorney

Exhibit A

GENERAL CONDITIONS

1. **Substantial Conformance:** Development is to be constructed in compliance with the Project Plans reflecting the review by the Design Review Board, with a date of January 23, 2026. Any modifications shall be reviewed by the Zoning Administrator who shall determine whether the modification requires additional approval.
2. **Conditions.** All conditions of approval shall be printed on the informational page of the final construction plans submitted for building permits, along with annotations by the applicant of where the conditions have been met on the drawings. All conditions of approval shall be on all grading and construction plans, which shall be kept on the project site at all times. It is the responsibility of the building developer to ensure that the Project contractor and construction crew are aware of and adhere to all conditions of approval.
3. **Responsibility to Inform:** The Applicant shall be responsible for ensuring that all subcontractors, consultants, engineers, or other business entities providing services related to the Project are aware of and comply with all Conditions of Approval.
4. **Maintenance:** The Applicant, shall, at all times, keep the property in good order including repair and maintenance of all structures, fences, signs, walks, driveways and painting, as may be necessary to preserve a high-quality environment. All landscaped areas shall be maintained free of litter, debris, and weeds. All plantings shall be permanently maintained in a healthy growing condition, and whenever necessary, replaced with equivalent planting materials to ensure continued conformance with approved plans. All required signage shall be maintained in a secure condition. Signs shall be kept free of rust, corrosion, peeling paint, cracks, fading, and other surface deterioration.
5. **East Bay Municipal Utility District (EBMUD).** The applicant shall ensure water service for new multiunit structures shall be individually metered or sub-metered in compliance with Section 537 of California's Water Code & Section 1954.201-219 of California's Civil Code, which encourages conservation of water in multifamily residential and mixed-use multi-family and commercial buildings by requiring metering infrastructure for each dwelling unit, including appropriate water billing safeguards for both tenants and landlords.
6. **Public Utilities.** Any relocation of existing improvements or public utilities shall be accomplished under the direction of the City or impacted utility company's requirement at no expense to the City or utility company.
7. **Underground Utilities.** All electrical, telephone, cable television, fiber-optic cable, gas, water, sewer, irrigation/recycled water, and similar distribution lines providing direct service to a project must be installed underground within the site. This requirement may be waived by the Zoning Administrator upon determining that underground

installation is infeasible or the electrical line is otherwise exempt from an undergrounding requirement.

8. Property Maintenance. The Applicant and/or property owner shall ensure the property is maintained in terms of a litter management program and repair and maintenance of all structures, fences, signs, walks, driveways, paving, striping, lawns, landscaping, painting, etc., as may be necessary to preserve a quality environment.
9. Project Frontage. The Applicant shall repair all damaged sidewalk, pavement, existing curb and gutter along the Project frontage to the satisfaction of the Community Development Director and City Engineer prior to occupancy. The applicant shall replace any damaged landscaping, improvements, or street improvements caused by the installation of utility services and construction of the Project to the satisfaction of the City Engineer and Community Development Director. The Applicant shall apply for and obtain an encroachment permit from the City Engineer prior to commencement of any Project-related work in the public right-of-way.
10. Revocation. Failure to abide and faithfully comply with any and all conditions attached to this approving action shall constitute grounds for the revocation of said action by the City Council, subject to all applicable laws.
11. Expiration. Design Review approval shall expire two years from the date of final approval, unless made permanent by the issuance of building permits and the commencement of construction. If the use(s) or structure(s) approved by this action is not established within such period of time, this approval shall be terminated and shall, thereafter, be null and void, unless the applicant or owner applies for an extension of time prior to expiration of the Design Review approval.
12. Indemnification. The applicant agrees, on behalf of himself, his successor in interest and assigns, to defend, indemnify, and hold harmless the City, its Council, Planning Commission, advisory boards, officers, employees, consultants and agents (hereinafter "City") from any claim, action or proceeding (hereinafter "Proceeding") brought against the City to attack, set aside, void or annul the City's actions regarding any development or land use permit, application, license, denial, approval or authorization, including, but not limited to, variances, use permits, developments plans, specific plans, general plan amendments, zoning amendments, approvals and certifications pursuant to the California Environmental Quality Act, and/or any mitigation monitoring program, or brought against the City due to acts or omissions in any way connected to the applicant's project, but excluding any approvals governed by California Government Code Section 66474.9. This indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and costs of suit, attorney's fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by applicant or City. If applicant is required to defend the City as set forth above, the City shall retain the right to select the counsel who shall defend the City.

PLANNING

13. Changes to Design: Prior written approval from the Community Development Director or their designee shall be received by the Applicant prior to any minor changes to site design, grading, building design, colors, materials, or related design elements. Major project design changes shall be subject to re-review by the Design Review Board (DRB) and/or Planning Commission, at the discretion of the Community Development Director.
14. Lighting and Sign Standards/Plans: Prior to issuance of building permits, the Applicant shall demonstrate that all exterior lighting and signage have been designed and located such that all direct light is confined to the property, meets all standards and requirements of City codes, to the satisfaction of the Community Development Director or their designee. Fixtures shall be appropriate to the style and scale of the architecture. All light fixtures shall be shielded, indirect, dark sky-friendly, and have output color temperature of no greater than 3,000 Kelvins LED.
15. Inclusionary Housing: The Project shall comply with Article 15.04.603 of the Zoning Ordinance, specifying that 7 single-family homes of the project's total 70 single-family homes (at least 10% of all primary units) shall be sold at affordable sales prices to "Moderate-Income" households, as defined in RMC Section 15.04.104.020 and State Health and Safety Code Section(s) 50052.5 and 50093.
16. The Applicant shall deposit funds within 30 days of final Project approval in an amount not to exceed \$16,000 to reimburse the City for the cost of retaining a qualified, independent third-party consultant, selected by the City, to prepare a No Net Loss compliance analysis pursuant to California Government Code Section 65863.
 - a. The analysis shall be prepared under the direction of the City and subject to review and approval by the Community Development Director and City Attorney. The Applicant shall have no authority over the selection, scope, or conclusions of the consultant. Any unused funds shall be returned to the Applicant within 30 days of completion of the analysis.
17. Prior to issuance of a building permit or approval of a final map, whichever is earliest, the Applicant shall enter into and record a written Inclusionary Housing Agreement with the City as specified in RMC Section 15.04.603.110.
18. Public Art. The project shall meet the requirements of RMC Chapter 12.62 by either including on-site publicly accessible art valued at one percent (1%) of building development cost, or by paying an in-lieu monetary contribution of one percent (1%) of the building development cost to the City's Public Art Project account as set forth and defined in RMC Section 12.62.050.
19. Water-Efficient Landscaping (RMC 15.04.613) Prior to the issuance of building permits, the applicant shall submit a Landscape Documentation Package

demonstrating full compliance with Richmond Municipal Code Article 15.04.613 (Water-Efficient Landscaping). The submittal shall include the Water Efficient Landscape Worksheet, irrigation and planting plans, hydrozone matrix, soil management report, and water budget calculations consistent with State MWELO and the City of Richmond's unique landscape watering requirements. Prior to final inspection, the applicant shall submit a Certificate of Completion and required irrigation audit, and the installed landscaping shall be verified as consistent with the approved Landscape Documentation Package. Ongoing maintenance shall comply with Article 15.04.613 for the life of the Project.

20. CC&R. Project covenants, codes, and restrictions (CC&Rs) shall be developed, and shall be reviewed and approved by the City Attorney and Zoning Administrator prior to approval of the Final Map. In addition to the following provisions, the CC&Rs shall reference by incorporation the approved Conditions of Approval, and shall be recorded in conjunction with the Final Map.

- a. Use of Required Parking Spaces. All parking spaces shall be used solely for the purpose of parking motor vehicles as defined by the California Vehicle Code, and shall not be used for trailers, unmounted campers, boats, or similar recreational vehicles.
- b. Right of Public Entry to Common Area. Officers, agents, and employees of the city, the county, the state, and the United States Government, and any department, bureau, or agency thereof, shall have the right of immediate access to all Common Areas at all times for the purpose of preserving the public health, safety, and welfare, except in those instances where a Common Area is accessible only through a private unit.
- c. Maintenance of Common Area. Provision shall be made both for annual assessments of the owners for maintenance and special assessments for capital improvements. The amount of the regular annual assessment and the procedure for its change shall be specified. The manner in which special assessments may be levied for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement upon the Common Area shall be specified. Both annual and special assessments may be collected on a monthly basis. The remedies that the Association may bring for the nonpayment of assessments shall be specified and may include penalties for late payment. Assignment of the maintenance responsibilities of all improvements and utility systems for each unit shall be specified.
- d. Sharing of Water Costs. When separate water meters are not provided for each unit, the CC&Rs shall make provisions for the equitable sharing of water costs.
- e. Utility Easements over Private Streets and Other Areas. Required public utility easements shall be referenced and any required access routes necessary to assure that firefighting equipment can reach and operate efficiently in all areas shall be provided.

- f. Right to Terminate Management and Maintenance Contracts. Unless otherwise prohibited by law, or any local, state, or federal regulation, reference shall be made to the Association's right to terminate the contract of any person or organization engaged by the developer to perform management or maintenance duties three months after the Association assumes control of the Project, or at that time renegotiate any such contracts.
- g. Disclosure regarding noise emanating from adjacent school and non-residential uses in the area, including but not limited to, the Ford Assembly Plant, Craneway Pavilion, and the Rosie the Riveter Visitor and education Center.
- h. CC&R Amendments. A statement that the CC&Rs shall not be amended, modified, or changed without first obtaining the written consent of the City.

ENVIRONMENTAL

- 21. Geotechnical Report: The Applicant shall implement the recommendations of the Geotechnical Investigation by ENGEO dated March 30, 2023.
- 22. Composting and Recycling: Consistent with the City's Climate Action Plan, the Applicant/Permittee shall have a "three-bin" recycling program (garbage, recycling and compost).
- 23. Refuse, Recycling and Green Waste Storage Areas: All solid waste and recycling areas shall comply with location and design criteria as provided in RMC Section 15.04.601.090.
- 24. The developer shall complete a Phase I Environmental Site Assessment (ESA) and if contamination is found on-site shall conduct a preliminary endangerment assessment with specific mitigation based on that assessment, prior to issuance of Certificates of Occupancy.

ENGINEERING

- 25. Transportation Demand Management: The Applicant/Permittee shall adhere to the Transportation Demand Management Program provided in compliance with RMC Section 15.04.612.
- 26. Storm Water Management during construction: During construction activities, the Applicant shall reduce or prevent to the maximum extent practicable the direct or indirect discharge of any dust or pollutant into the storm drain system using best management practices contained in the California Storm Water Best Management Practices Handbook for Construction Activities. Construction activities include but are not limited to: watering operations; roadwork and paving operations; concrete and

painting; structure construction; construction material storage and handling; construction waste/debris storage and disposal; and, construction equipment vehicle cleaning, maintenance and fueling operations. The Project sponsor is also responsible for training all contractors and subcontractors on the best management practices identified in the California Storm Water Best Management Practices Handbook for Construction Activities which shall be made available by the Project sponsor at the pre-construct meeting of the Project.

27. Encroachment Permit Required: The Applicant shall obtain an encroachment permit from the City of Richmond Public Services/Engineering Department for all work to be conducted within public rights-of-way. All curb, gutter, and sidewalk replacement shall conform to City of Richmond standards. Should any infrastructure be damaged or destroyed as a result of the construction of the Revised Project, the Applicant shall be responsible for returning the infrastructure to an acceptable condition as determined by the City's Public Works Director.
28. Turning Radius. The construction drawings shall indicate emergency vehicle turning radii to ensure compliance with Fire Department standards.
29. Street Improvements. Street improvement plans shall be prepared by a licensed civil engineer for any work in the public right of way and obtain Department of Public Works approval prior to construction of any subdivision improvement.
30. All streets, sidewalks, sanitary sewers and storm drains within the development shall be private and shall be the responsibility of the development to maintain.
31. Project shall contribute \$25,000 towards the implementation of Richmond Wellness Trail Phase 2. Payment shall be made prior to the issuance of the first certificate of occupancy.
32. Project shall provide a minimum 6-foot solid screening wall of stucco, decorative block, or concrete panels along the west property line adjacent to the Ford Assembly Plant.

BUILDING

33. Building Division. The Applicant shall provide structural design and drawings, energy and green building compliance in addition to the general life and safety compliance drawings as a part of the Build Permit Application.

PUBLIC WORKS

34. The permittee shall complete a Pavement Conditions Assessment for each road used

by trucks delivering materials to the site. These assessments shall be completed in accordance with the Metropolitan Transportation Commission's guidelines. This evaluation shall be completed before and after construction to determine the change in the Pavement Conditions Index. The permittee shall be responsible for paying their pro rata share of pavement restoration for any decrease in the Pavement Conditions Index (PCI) to restore the roadway to a PCI rating of 100. For example, if the pre and post PCI is 60 and 40 respectively, there is a 20-point decrease. Therefore, the permittee would be responsible for paying the City 20% of the cost to restore the roadway to a PCI rating of 100. This fee shall be collected prior to issuing the final certificate of occupancy for the development. The cost of restoring the roadway shall be based upon the City's current pavement conditions report.

35. If during the work, any roadway's pavement exhibits significant distress, the permittee shall immediately repair the roadway as directed by the Public Works Director. This condition does not waive the permittee of constructing, repairing, and/ or rehabilitating any roadways required to complete the Project.
36. The Applicant shall post-performance bonds for all public and private site development.
37. Improvements prior to commencing grading activities. The bond's value shall be based upon a reasonable value agreed upon with the Public Works Director.
38. The Applicant shall repair all damaged sidewalk, pavement, existing curb and gutter along the project frontage to the satisfaction of the Community Development Director and City Engineer, prior to issuance of Certificates of Occupancy.
39. The Applicant shall replace any damaged landscaping, improvements, or street improvements caused by the installation of utility services and construction of the project to the satisfaction of the City Engineer and Community Development Director prior to issuance of Certificates of Occupancy.
40. All new electrical lines and connections to the site shall be undergrounded to the satisfaction of the City Engineer and Community Development Director.
41. Any relocation of existing improvements or public utilities shall be accomplished under the direction of the City or the impacted utility company's requirement, at no expense to the City or utility company.
42. The Project shall conform to the latest C3 standards and Best Management Practices.

43. The Project is required to retrofit all existing and new drain inlets and catch basins on-site and adjacent offsite with full-trash capture devices per RMC Sec. 12.22.090(a). Include detail of the chosen device on the construction plans and indicate the locations where they will be installed (see attached list of approved full trash capture devices). As part of the SWCP the Project shall be listed in the text for the trash inserts within the "Source Control Measures" and Section VI "Stormwater Facility Maintenance" Section of the SWCP.

44. Submit Operations and Maintenance Plan and an Operations & Maintenance (O&M) Agreement per the City of Richmond Templates for storm water quality facilities. After approval of the O&M Plan and Agreement by the Water Resource Recovery Department the following shall occur:
 - a. The property owner must sign and notarize the Agreement first.
 - b. Then submit it to the City along with a legal description of the property.
 - c. City officials will sign and notarize the Agreement.
 - d. The executed Agreement is to be recorded with the County by the City.
 - e. The City will provide the Property Owner with a copy of the recorded Agreement.

45. The Project shall video all storm and sewer pipes on the property and up to connection points to City systems. The videos shall be provided to the Water Resource Recovery Department for review prior to finalizing the Project utility plan. In addition, video of pipes constructed shall be completed prior to unit occupancy.

46. The Project shall install a two-way cleanout, overflow protection device and a backflow device for each unit/connection. Coordinate number of connections with MEP consultant.

47. The Project shall comply with minimum storm drain standards set forth in City of Richmond Standards Plans and in the RMC. Documentation provided in support of proposed Storm Drain improvements shall include, but is not limited, to:
 - a. Project shall provide as-built drawing to the City of Richmond ECIP Department for all improvements constructed onsite and off-site as part of the Project. The as-built drawings must be stamped by the engineer of record for the Project.
 - b. Project shall comply with the City's Storm drain design standards in RMC Section 15.08.570. Storm Drain Design Criteria shall follow the City of Richmond's RMC "§12.44.060(f) - Design standards and grading regulations (Regulations for Drainage).

48. Access roads with a minimum unobstructed width of 20 feet shall be provided to the front and rear of structures. A minimum vertical clearance of 13 feet 6 inches shall be provided. Access roads shall be engineered to support the imposed load of Fire Department ladder truck apparatus weighing 35 tons and shall be designed per the City Public Works Department Standards. An access road shall be provided to within 150 feet of all exterior walls of the first floor of all buildings. The access road route shall be approved by the Fire Marshal.

FIRE

49. Water Supply. Approved on-site water supply capable of supplying the required fire flow for on-site fire protection shall be provided to all premises upon which buildings are constructed. When any portion of a building is in excess of 150 feet from a water supply on a public street, as measured by an approved route around the exterior of the building, on-site fire hydrants and mains capable of supplying the required fire flow shall be provided when required by the Fire Marshal.

50. Fire hydrants and mains capable of supplying 2,500 gallons per minute @ 20 p.s.i. residual pressure shall be provided in approved locations. On-site fire hydrants shall be located so vehicle travel is no greater than 300 ft. between hydrants.

51. Fire hydrants shall be installed by the developer and made serviceable prior to any combustible building materials being delivered or stored on the site and during the time of construction.

52. There shall be no more than 300 feet between public/private fire hydrants located along the public/private street.

53. Every building shall be accessible to Fire Department apparatus by way of all-weather access roadways during the time of construction. These roads shall have a minimum unobstructed width of 20' and shall be required to have a minimum 'first lift' of pavement applied which shall support the imposed load of a fire apparatus which is typically 37 tons. (no exceptions) The developer shall be required to provide the Fire Marshal with a site plan showing the location, width, grades, and cross section of the proposed access roads to be used during construction. Permits shall not be issued and combustible construction shall not be allowed on the site until this site plan is reviewed and approved and stamped by the Fire Department.

54. The Fire Marshal shall identify on the final site development plans all Fire Lanes and areas where parking is to be restricted. The location of these lanes, signage, and curb painting shall be determined at the sole discretion of the Fire Marshal.

55. Subject to the review and approval of the Fire Marshal, an Automatic Fire Sprinkler System shall be installed in accordance with N.F.P.A. 13R. Any fire sprinkler system with over twenty-five (25) heads shall be monitored for water flow by a central station approved by the Fire Marshal.
56. When multiple control valves and Fire Department Connections (F.D.C.) are installed in close proximity to one another, a signal device shall be installed on each (F.D.C.) which will be audible or visual upon activation to clearly define which system has specifically been activated. The type of device shall be approved by the Fire Marshal.
57. A Manual Fire Alarm System, including a fire alarm control panel and all other associated equipment and devices according to the applicable standards published by N.F.P.A. shall be installed to the satisfaction of the Fire Marshal. The fire alarm panel shall clearly identify the location of the specific alarm within the building. Codes to silence the alarm system shall be provided within the fire alarm panel or Knox Box. Plans and specifications shall be submitted to the Fire Department for review and approval prior to installation.
58. The Fire Marshal shall approve the location, number, and sizes of all portable fire extinguishers prior to the issuance of any building permits.
59. All fire protection systems including, but not necessarily limited to, fire sprinkler systems, fire alarm systems, and fixed fire extinguishing systems must comply with the most recent adopted standards published by the National Fire Protection Association, (NFPA), except where specifically amended modified by Fire Department policy or ordinance.
60. Plans and specifications for the installation of any new fire protection and/or detection systems or any modification to an existing system shall be submitted to the Fire Department for review and approval prior to installation. This includes all underground civil plans pertaining to all onsite fire protection.
61. All detailed plans and specifications for private fire protection and or detection systems shall be submitted separately to the Fire Marshal for review and approval. Prior to the issuance of any grading or Building Permits, the Applicant shall integrate the approved plans for fire protection and detection systems into the plans submitted to the Planning Development Department for all civil improvements.
62. The Project shall be subject to any Fire and Building code changes effective January 1, 2023.

63. All dumpsters or trash containers with an individual capacity of 1.5 cubic yards or more shall not be stored in buildings or placed within five (5) feet of combustible walls, openings, or combustible roof eave lines unless protected by an automatic sprinkler system approved by the Fire Marshal.

SHORELINE

64. Within 30 days after final approval of the Project, the Project sponsor shall make an irrevocable offer of dedication of Parcel C to the City and provide to the Planning Manager for administrative review and approval a detailed frontage and Improvement Area Design Package for the area within the 100-foot shoreline band between the northern edge of the existing Bay Trail and the developed portion of the Project site, as depicted in Exhibit A attached hereto ("Improvement Area"). The Improvement Area Design Package shall include, at a minimum: site plans, grading, landscaping, hardscape, lighting, and any proposed public access or amenity features ("Improvement Area Design Package"). The Project sponsor shall work in good faith with the Planning Manager to design the Improvement Area Design Package and the Planning Manager shall work in good faith to consider and reasonably approve the Improvement Area Design Package.

65. Approval of the Improvement Area Design Package shall be at the sole discretion of the Planning Manager, shall not constitute a separate entitlement, shall not constitute a reason not to consider and approve any approvals such as grading and building permits required to implement the Project, and have no third party right of appeal. The City shall have sole authority and obligation to seek and obtain any required approvals from third-party agencies. The Project sponsor shall have no obligation to seek, obtain, or participate in seeking or obtaining any required approvals from any third-party agencies.

66. If the City succeeds in seeking and obtaining any required third-party agency approvals of the Improvement Area Design Package before the Project is eligible to seek and obtain the 25th certificate of occupancy, the City shall accept the irrevocable offer of dedication of the Improvement Area and the Project sponsor will construct the fully approved Improvement Area Design Package prior to the final certificate of occupancy. If the costs to construct the Improvement Area Design Package are more than \$150,000, then the City shall grant the Applicant fee credits against the Park Impact Fees for any amounts above \$150,000.

67. If the Planning Manager has not approved the Improvement Area Design Package and/or the City has not sought or obtained any required third-party agency approvals before the Project is eligible to seek and obtain the 25th certificate of occupancy, the Project sponsor shall place the estimated cost to implement the Improvement Area Design Package, in an amount not to exceed \$150,000, into escrow to be used for the construction of the Improvement Area Design Package if and when the City and/or any required third-party approvals are obtained.

68. The Project's CC&R's shall include provisions both for annual assessments of the owners for maintenance of the Improvement Area and any improvements constructed pursuant to the approved Improvement Area Design Package and special assessments for capital improvements of the improvements constructed pursuant to the approved Improvement Area Design Package. Annual assessments for such maintenance shall not exceed a total of \$8,400, which figure shall be adjusted on January 1 of each calendar year an amount equal to the annual change in the Consumer Price Index of the Bay Area region from December to December of each year as set by the Department of Labor's Bureau of Statistics. Such provisions shall be subject to the review and reasonable approval of the City Attorney prior to approval of the Final Map.

69. Annual assessments for such maintenance shall not exceed a total of \$8,400, which figure shall be adjusted on January 1 of each calendar year an amount equal to the annual change in the Consumer Price Index of the Bay Area region from December to December of each year as set by the Department of Labor's Bureau of Statistics.

Exhibit A

