

Point Molate Community Advisory Committee

July 12, 2016

City of Richmond
450 Civic Center Plaza
Richmond, CA. 94804

Attn: Mayor Tom Butt
Vice Mayor Eduardo Martinez
Councilmember Nathaniel Bates
Councilmember Jovanka Beckles
Councilmember Gayle McLaughlin
Councilmember Jael Myrick
Councilmember Vinay Pimplé
City Manager Bill Lindsay

cc: Richard Mitchell, Bruce Goodmiller, Craig Murray

Re: Proposed Settlement: Upstream vs. City of Richmond

Dear Mayor, Councilmembers and City Manager,

The Point Molate Community Advisory Committee (PMCAC) as chartered under City Resolution 51-16 to serve in an “advisory role to work with City Council staff and other citizen advisory boards and commissions as appropriate to provide advice and input on all Point Molate matters, including but not limited to the appropriate clean-up, restoration, sustainable development and use of Point Molate” provides the following recommendation regarding a proposed settlement of Upstream vs. City of Richmond currently before the 9th Circuit on appeal.

Upon review of the circumstances surrounding the proposed settlement, history of the litigation, and scope and context of the proposed settlement as available from documents provided under a Public Records Act request, the PMCAC voted unanimously at its regularly scheduled monthly meeting on July 11, 2016 to **advise City Council and staff to reject and not further consider a proposed settlement.**

Belies resolution adopting the General Plan of April 26, 2012

The 2030 General Plan adoptive resolution 52-12 of April 26, 2012 included a provision to “Refer the Pt. Molate land use designation to staff for further review on certain land use modifications, consistent with remediation funding available, with public input and an open process through the Planning Commission and City Council.” Additionally the Urban Form definition adopted in April 2016 in the General Plan instructed; “In the former Point Molate Navy Fuel Depot area, improvements to public areas should be guided for the most part by the 1997 Point Molate Reuse Plan; except any references encouraging the demolition of Building 6 (page I-34 of the Point Molate Reuse Plan)

While the General Plan adoptive resolution included direction to staff to further review land use modifications with public input and an open process, this action has not yet been undertaken and the Land Use Designations for Pt. Molate have not been finalized. Further the proposed buildout in the “Winehaven Hotel” project is not in conformance with the Urban Form concepts in the 2030 GP or the default LUDs in the 2010 GP.

Assumes LUDs and Zoning in a non-compliant process

Incorporation of defined uses of the Pt. Molate Property as part of the “Winehaven Hotel” project and settlement agreement would skirt process requirements for establishment of Land Use Designations and Zoning by not proceeding with the establishment of LUDs and Zoning via a public process, with stakeholder and commission inclusions, with publicly published planning, refining and final documentation.

The process would occur in a de facto manner behind closed doors. While settlement talks surrounding litigation certainly qualify for closed session conduct, as would land sale/property price negotiations, LUD and Zoning definitions are not matters for closed session.

Unduly removes opportunity for multiple parties to participate in proposed sale of property and proposed development projects.

Beyond creating a de facto determination of LUDs and Zoning behind closed doors, inclusion of the “Winehaven Hotel” project as part of the settlement agreement amounts to sole sourcing both the sale of the property and the development of the property, thus removing any opportunity to consider bids that may be of greater financial value than that proposed in the settlement, and moreover; runs well beyond acceptable bounds for sole sourcing, given that both the sale and development of the Pt. Molate property are reasonably valued in the multiple millions of dollars.

Inappropriate project for the site.

Independent of the procedural, conformance and sequencing issues outlined above, the proposed development is wholly inappropriate for the site. The project is in contravention of the goals and policies of the General Plan regarding shoreline recreation, preservation of natural resources, density and transit oriented development.

Respectfully,



Charles Duncan
Chair, Point Molate Community Advisory Comte.
c/o The Mayor’s Office
450 Civic Center Plaza
Richmond, CA. 94804