

# CITY COUNCIL ACTION



CITY OF SAN PABLO  
City of New Directions

PREPARED BY: Brock Arner, City Manager

DATE OF MEETING: August 31, 2009

DATE: August 26, 2009

PHONE: (510) 215-3002

SUBJECT: RESOLUTION OF THE CITY COUNCIL REGARDING IMPACTS TO THE CITY OF SAN PABLO BY THE PROPOSED DEVELOPMENT OF THE POINT MOLATE MIXED-USE DESTINATION RESORT AND CASINO PROPOSED IN THE CITY OF RICHMOND AND IDENTIFICATION OF THE INADEQUACIES IN THE DRAFT EIS/EIR AS CURRENTLY CONSTITUTED.

APPROVED: \_\_\_\_\_

DEPARTMENT HEAD

  
CITY MANAGER

  
CITY ATTORNEY

## RECOMMENDATION:

Adopt the attached resolution and direct the Mayor to sign the letter outlining the City of San Pablo's concerns with the inadequacy of the draft EIS/EIR to the City of Richmond and the Bureau of Indian Affairs.

## BACKGROUND

The Bureau of Indian Affairs (BIA) and the City of Richmond, acting as lead agencies, have initiated the preparation of a joint Environmental Impact Statement (EIS) and Environmental Impact Report (EIR) to address the environmental effects of the Point Molate Resort and Casino Project. The project proposes the construction of a mixed-use destination resort and casino at Point Molate, the former site of the Navy's Fuel Depot. The project also includes taking approximately 266 acres of the site into federal trust to serve as the Guidiville Band of Pomo Indians of the Guidiville Rancheria "restored" reservation, despite the fact that there is no real historical nexus or connection between the site and the Guidiville Band; and Federal approval of a gaming management contract.

The project proponents analyzed four development alternatives (A-D), which include a Total Parkland Alternative, and a No-Action Alternative. Alternatives A, B, and C require the transfer of land back to the United States to be held in Trust status for the benefit of the Tribe and approval of a management contract by the National Gaming Commission (NIGC), whereas Alternatives D-F do not require any approvals.

Alternatives 'A' through 'C' focus on developing the site with a casino and related uses with slight variation. Alternative 'D' proposes the development of residential and commercial uses on the project site; however, the project site would be owned by the tribe and its development partner Upstream Point Molate LLC (Upstream) and would remain in fee status (not placed in federal trust).

### Departmental Coordination

☐ Community Services \_\_\_\_\_ ☒ Finance 

☐ Police \_\_\_\_\_ ☐ Public Works \_\_\_\_\_

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Under Alternative E, the City of Richmond would retain title to the project site and development would be limited to stabilizing the historic buildings located on the site and infrastructure improvements necessary to provide basic amenities, such as public restrooms.

Under alternative F, no action would be taken and the project site would be maintained in its current care-taker status with limited public access.

A summary of the primary land uses for each of the alternatives is included in the following table:

	Casino	Hotel	Commercial	Residential	Open space
<b>Alternative A</b> <b>Proposed Mixed-Use Tribal Destination Resort and Casino project</b>	240,000 sq. ft. Casino	2 hotels totaling 1,075 rooms	170,000 sq. ft. of business, conference and entertainment facilities  300,000 sq. ft. retail shopping center	54 luxury Cottages and "Casitas"	35 acre Shoreline Park Tribal park (unspecified size) Development of a segment of the Bay Trail Construction of Ferry terminal
<b>Alternative B</b> <b>Tribal Mixed-Use Destination Resort and Casino Project with Residential Component</b>	Same as Alternative A	Same as Alternative A	Same as Alternative A	340 housing units on approximately 35 acres	Same as Alternative A
<b>Alternative C</b> <b>Reduced Intensity Mixed Use Tribal Destination Resort and Casino</b>	Same as Alternative A	1 hotel with 400 rooms	50,000 and 30,000 sq. ft of conference and entertainment facilities, respectively.  20,000 sq. ft retail shopping center	Same as Alternative A	236 acres of parkland  Construction of Ferry terminal
<b>Alternative D</b> <b>Non-Gaming/Non-Trust Acquisition with Mixed- Use Development</b>	No casino	150 room hotel	150,000 sq. ft. convention facility  Winehaven building would house retail.	1,100 residential units on approximately 70.5 acres	35 acre Shoreline Park  Construction of Ferry terminal
<b>Alternative E</b> <b>Total Parkland</b>	No Casino	No hotel/s	No commercial space	No residential	Entire site dedicated as public parkland, no new buildings proposed
<b>Alternative F</b> <b>No Action</b>	No action, site would remain as is.				

## **PUBLIC HEARING**

The City of Richmond scheduled two public hearing dates on August 12, 2009 and September 17, 2009 to receive verbal and written comments on the draft EIS/DIR. Staff attended the first meeting and attachment B identifies the issues discussed at the meeting. The comment period on the EIS/EIR ends on September 23, 2009.

## **ISSUES OF CONCERN**

After review of the Draft EIS/EIR, staff is concerned that the document does not comply with the requirements of the California Environmental Quality Act ("CEQA") and the National Environmental Policy Act (NEPA).

The following section sheds light on the fiscal impacts the City of San Pablo will be facing if the Point Molate resort is developed. The attached Draft letter (Attachment A) identifies the environmental impacts that will be triggered by the proposed development.

### **Socio-Economic Impacts**

San Pablo, like Richmond, is a low-income, minority community, and has Casino San Pablo (CSP), a Class II casino operated by the Lytton Rancheria Band of Pomo Indians. It is the only existing casino within the nine-county Bay Area. The proposed Point Molate site is approximately 2.5 miles from the existing casino in San Pablo.

The socio-economic impact provided in the EIS/EIR obscures the impacts on San Pablo. First, census tracts are used as the basis of analysis and not municipal boundaries. So the impact on the City of San Pablo is not properly assessed. Second, the evaluation of cannibalization (the diversion of economic activity from one facility to another) examines three categories: Greater San Francisco, Greater Sacramento and Other. This grouping obscures the impact on the City of San Pablo. Given that the economic impact analysis uses a gravitational model for analysis, and Point Molate will be located within 2.5 miles of CSP, therefore, the greatest impact will be on the City of San Pablo. By including San Pablo in the far-flung grouping called "Greater San Francisco," the extent of the impact on San Pablo is masked.

Third, CSP is Class II, and a Class II casino clearly can't compete with a Class III casino located so close to it. It is likely that the CSP facility will not remain profitable when faced with nearby competition from a resort Class III casino; at a minimum most or all of the revenue will disappear. Even if CSP wanted to change to Class III, it is unlikely such approval will be given since the Legislature already has made known its opposition to allowing Class III on the I-80 corridor in the East Bay. If there is a significant decrease in revenue to the Class II CSP facility, or if CSP successfully transitions to a Class III, the City of San Pablo will suffer a significant loss of revenue, leading to severe adverse socio-economic impacts and urban decay, which must be evaluated under NEPA and CEQA respectively. A change to Class III by CSP will reduce revenue to the City of San Pablo by \$8.5 million annually pursuant to the legally binding Municipal Services Agreement that exists between CSP and the City of San Pablo.

The Municipal Services Agreement (MSA) between the City and the Lytton Rancheria Band of Pomo Indians (the Tribe) regarding CSP provides for the payment of a portion of the revenues to

compensate the city for the provision of services. The MSA provides that the Tribe will pay 7.5 percent of the gross gaming revenues from Class II gaming, with no maximum, or 5.4 percent of gross gaming revenues from Class III gaming, to a maximum of \$3.5 million per year (Section 7, *Compensation, Charities and Benefits*, of the MSA).

For Fiscal Year 2008-2009, the City received \$12 million dollars in revenue from CSP. This represented approximately 66 percent of the City's General Fund budget of \$18.2 million. The loss of income to the City, should CSP transition to a Class III facility, would represent a \$8.5 million loss to the City. This loss would be 46.7 percent of the annual General Fund balance. The City could not continue to provide adequate police protection or recreation services, or maintain public infrastructure. This loss of revenue to the City, directly attributable to the Point Molate casino, will result in urban decay within the City of San Pablo.

The economic impacts of the project on the economic health of the City and residents of San Pablo are even more severe when the current economic situation in the City is considered. Since the adoption of the City's FY 2009/10 budget on July 1, 2009, the Redevelopment Agency has lost approximately \$9.1 million as a result of a 24% decrease in assessed property value and takes by the State of California. These losses are expected to continue over the next few years as property values continue to decline. Another pending threat to the Redevelopment Agency's fiscal health will be starting in 2012/13, Contra Costa County will be taking what remains of our tax increment after debt service. The City will then be 100% dependent on the General Fund for street repairs. If the CSP revenue is impacted the City will not have any way to maintain its infrastructure. Additionally, revenue to the General Fund for FY 2009/10 was decreased by \$255,000 due to Prop 1A takes by the State and loss of sales tax revenue.

### **Public Health and Safety**

**Single Point of Access.** The EIR/EIS discusses the need to have emergency response plans developed for the casino complex but does not provide any analysis of the potential problem of having a single access road to such a major facility.

**Risk Management Plan.** The Chevron Refinery is required to prepare and comply with a Risk Management Plan (RMP) under the California Accidental Release Program (CalARP). The Plan includes risk assessment which includes a Worst Case Scenario and an Alternative Release Scenario. Chevron's Risk Management Plan prepared in 2002 places the entire project site within the areas affected by the Worst Case Scenario and three-quarters of the site was within the area affected by the Alternative Release Scenario.

There is no analysis about the impact to public safety should the loss of revenue to San Pablo occur which would have a dramatic impact on the provision of police services.

### **NEXT STEPS**

As stated above, the end of the EIR/EIS review period is September 23, 2009. It is staff's intent to file a comment letter with the City of Richmond and the Bureau of Indian Affairs addressing the City of San Pablo's concerns with the adequacy of the environmental document and the adverse effect on San Pablo.

### **FISCAL IMPACT**

No fiscal impact at this time. Should the Point Molate casino become operational as a Class III facility, the effect on operations in the City of San Pablo will be immediate and drastic. Police services will be substantially cut. Recreation programs will be substantially cut or eliminated. Aid to the School District would cease. Street and sidewalk repair and graffiti abatement will be drastically reduced. Dozens of employees of the city would be laid off including maintenance workers, planners, engineers and as many as twenty five police officers. Public safety, public service, and the welfare of those living and working in San Pablo would be greatly compromised. Urban decay would be the inevitable result.

### **ATTACHMENTS:**

Attachment A            Comment Letter on the EIR/EIS  
Attachment B            Topics discussed at the first public meeting (August 12, 2009)  
Attachment C Letter to City of Richmond titled, City of San Pablo Comments on the Draft Point Molate EIS/EIR

s/pointmolateCAFfinal.8.31.09

RESOLUTION NO. 2009-

**RESOLUTION OF THE CITY COUNCIL REGARDING IMPACTS TO THE CITY OF SAN PABLO BY THE PROPOSED DEVELOPMENT OF THE POINT MOLATE MIXED-USE DESTINATION RESORT AND CASINO PROPOSED IN THE CITY OF RICHMOND AND IDENTIFICATION OF THE INADEQUACIES IN THE DRAFT EIS/EIR AS CURRENTLY CONSTITUTED.**

WHEREAS, the Bureau of Indian Affairs (BIA) and the City of Richmond, acting as lead agencies, have initiated the preparation of a joint Environmental Impact Statement (EIS) and Environmental Impact Report (EIR) to address the environmental effects of the Point Molate Resort and Casino Project. The project proposes the construction of a mixed-use destination resort and casino at Point Molate, the former site of the Navy's Fuel Depot. The project also includes taking approximately 266 acres of the site into federal trust to serve as the Guidiville Band of Pomo Indians of the Guidiville Rancheria "restored" reservation, despite the fact that there is no real historical nexus or connection between the site and the Guidiville Band; and Federal approval of a gaming management contract;

WHEREAS, the proposed project would have a 240,000 square foot casino, two hotels totaling 1,075 rooms, 170,000 square feet of business, conference and entertainment facilities, a 300,000 square feet retail center, 54 luxury cottages and "casitas," and a 35 acre shoreline park;

WHEREAS, the comment period on the EIS/EIR ends on September 23, 2009;

WHEREAS, San Pablo, like Richmond, is a low-income, minority community, and has Casino San Pablo (CSP), a Class II casino operated by the Lytton Rancheria Band of Pomo Indians. It is the only existing casino within the nine-county Bay Area. The proposed Point Molate site is approximately 2.5 miles from the existing casino in San Pablo. The Municipal Services Agreement (MSA) between the City and the Lytton Rancheria Band of Pomo Indians (the Tribe) regarding CSP provides for the payment of a portion of gaming revenues to the City. The MSA provides that the Tribe will pay 7.5 percent of the gross gaming revenues from Class II gaming, with no maximum, or 5.4 percent of gross gaming revenues from Class III gaming, to a maximum of \$3.5 million per year (Section 7, *Compensation, Charities and Benefits*, of the MSA).

WHEREAS, during Fiscal Year 2008-2009, the City received \$12 million dollars in revenue from CSP. This represented approximately 66 percent of the City's General Fund budget of \$18.2 million. The loss of income to the City, should CSP transition to a Class III facility in order to compete with the Class III casino at Point Molate, would represent an \$8.5 million loss to the City. This loss would be 46.7 percent of the annual General Fund balance. Should CSP remain as a Class II facility in the face of a resort casino 2.5 miles away with Class III gaming, it can be expected that revenue to the Tribe and City will be reduced to at least the same extent. It is not likely that Casino San Pablo could get approval for a Class III facility since the Legislature has already denied such a compact and has made it clear that it will not countenance a Class III facility on the I-80 corridor;

WHEREAS, should the Point Molate casino become operational as a Class III facility, the effect on operations in the City of San Pablo will therefore be immediate and drastic. Police services will be substantially cut. Recreation programs will be substantially cut or eliminated. Aid to the School

District would cease. Street and sidewalk repair and graffiti abatement will be drastically reduced. Dozens of employees of the city would be laid off including maintenance workers, planners, engineers and as many as twenty five police officers. Public safety, public service, and the welfare of those living and working in San Pablo would be greatly compromised. Urban decay would be the inevitable result, all directly attributable to the approval of a Class III casino at Point Molate. These severe adverse socio-economic impacts and urban decay must be evaluated under NEPA and CEQA;

WHEREAS, the economic impacts of the project on the economic health of the City and residents of San Pablo are even more severe when the current economic situation in the City is considered. Since the adoption of the City's FY 2009/10 budget on July 1, 2009, the Redevelopment Agency has lost approximately \$9.1 million as a result of a 24% decrease in assessed property value and takes by the State of California. These losses are expected to continue over the next few years as property values continue to decline. Further, starting in 2012/13, Contra Costa County will take what remains of the Agency's tax increment after debt service. The City will then be 100% dependent on the General Fund for street repairs. If the CSP revenue is impacted the City will simply have no way to maintain its infrastructure. Additionally, revenue to the General Fund for FY 2009/10 was decreased by \$255,000 due to Prop 1A takes by the State and loss of sales tax revenue.

WHEREAS, the socio-economic impact provided in the EIS/EIR obscures the impacts on San Pablo. First, census tracts are used as the basis of analysis and not municipal boundaries. So the impact on the City of San Pablo is not properly assessed. Second, the evaluation of cannibalization (the diversion of economic activity from one facility to another) examines three categories: Greater San Francisco, Greater Sacramento and Other. This grouping obscures the impact on the City of San Pablo. Given that the economic impact analysis uses a gravitational model for analysis, and Point Molate will be located within 2.5 miles of CSP, therefore, the greatest impact will be on the City of San Pablo. By including San Pablo in the far-flung grouping called "Greater San Francisco," the extent of the impact on San Pablo is masked.

WHEREAS, the EIR/EIS discusses the need to have emergency response plans developed for the casino complex but does not provide any analysis of the potential problem of having a single access road to such a major facility.

WHEREAS, the Chevron Refinery is required to prepare and comply with a Risk Management Plan (RMP) under the California Accidental Release Program (CalARP). The Plan includes risk assessment which includes a Worst Case Scenario and an Alternative Release Scenario. Chevron's Risk Management Plan prepared in 2002 places the entire project site within the areas affected by the Worst Case Scenario and three-quarters of the site was within the area affected by the Alternative Release Scenario.

NOW, THEREFORE, the City Council of the City of San Pablo hereby resolves that the Mayor is directed to sign the letter outlining the City of San Pablo's concerns with the inadequacy of the draft EIS/EIR to the City of Richmond and the Bureau of Indian Affairs.

\* \* \* \* \*

Adopted this \_\_\_\_\_ day of \_\_\_\_\_ 2009, by the following vote to wit:

AYES: COUNCILMEMBERS

NOES: COUNCILMEMBERS

ABSENT: COUNCILMEMBERS

ABSTAIN: COUNCILMEMBERS

ATTEST:

APPROVED:

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Ted J. Denney, City Clerk

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Leonard M. McNeil, Mayor

s:\cm\gaming\Pt.MolateEIR



Attachment A**DRAFT**

CITY OF SAN PABLO

*City of New Directions*

September 21, 2009

Lina Velasco, Senior Planner  
 City of Richmond Planning Division  
 450 Civic Center Plaza  
 P.O. Box 4046  
 Richmond, CA 94804

**RE: Joint Draft Environmental Impact Statement and Environmental Impact Report (EIS/EIR) for the Point Molate Resort and Casino Project (PLN 08-089)**

Dear Ms. Velasco:

The City of San Pablo has reviewed the proposed casino development and the draft Environmental Impact Statement (EIS) and Environmental Impact Report (EIR) for the Point Molate Resort and Casino Project. The Project includes the construction of a mixed-use destination resort and casino at Point Molate, the former site of the Navy's Fuel Depot. The Project also includes taking approximately 266 acres of the site into federal trust to serve as the restored reservation for Guidiville Band of Pomo Indians of the Guidiville Rancheria and Federal approval of a gaming management contract. The City submits the following comments on the environmental documents.

#### **REQUEST FOR EXTENSION OF COMMENT PERIOD**

First, the City requests that the comment period on the draft EIS/EIR be extended, as the time given was too short relative to the scope and complexity of the proposed Project. If the comment period is not extended, we intend to submit supplemental comments, and we hope that you will fully consider and respond to these supplemental comments as well.

#### **COMMENTS ON THE DRAFT EIS/EIR**

As explained more fully below, the City's Draft EIS/EIR does not comply with the requirements of the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA). The City of Richmond and the U. S. Department of the Interior may not approve the Project or grant any permits for the Project until an adequate EIR/EIS is prepared and re-circulated for public review and comment.

The following sections of this letter outline the inadequate evaluation of socio-economic impacts, transportation impacts, biological impacts, public health and safety impacts, insufficient alternatives analysis, and the incomplete project description.

## 1. Socio-Economic Impacts

The City of San Pablo is almost completely surrounded by the City of Richmond, which is identified in the EIS/EIR as a low-income, minority community. San Pablo also is a low-income, minority community, with lower median and mean household income than Richmond, and approximately the same percentage of minority population. In fact, San Pablo has the lowest household income of all the cities in Contra Costa County.<sup>1</sup> The following provides a comparison between the two cities:

	Richmond	San Pablo
Median Household Income	\$50,346	\$46,326
Mean Household Income	\$62,860	\$57,568
Percentage White Population	33.6%	35.6%
Percentage Minority Population	66.4%	64.4%

Source: <http://factfinder.census.gov/home>, 2005-2007 American Community Survey 3-Year Estimates.

Casino San Pablo (CSP), a Class II casino operated by the Lytton Rancheria Band of Pomo Indians is located within the City of San Pablo. It is the only existing casino within the nine-county Bay Area, although three proposed casinos are pending: one in Santa Rosa in Sonoma County, one in North Richmond, and the one at Point Molate. The proposed Point Molate site is approximately 2.5 miles from the existing casino in San Pablo.

The socio-economic impact provided in the EIS/EIR does not properly describe the impacts on San Pablo. First, census tracts are used as the basis of analysis and not municipal boundaries, so the impact on the City of San Pablo is not clearly identified.

Second, the evaluation of cannibalization (the diversion of economic activity from one facility to another) groups Northern California casinos into three categories: Greater San Francisco, Greater Sacramento and Other (see page 84, Appendix T of the EIS/EIR, *Economic Impact and Growth Inducing Impact Study*). The category, *Greater San Francisco*, includes the Black Oak Casino in Tuolumne near Yosemite, River Rock in Geyserville, Robinson Rancheria in Sonoma, CSP, and the Scotts Valley Casino in North Richmond. This grouping obscures the impact on CSP. Given that the economic impact analysis uses a gravitational model for analysis, and Point Molate will be located within 2.5 miles of CSP, the greatest impact will be on CSP. It is reasonable to assume that most of the projected \$174 million of gaming revenue projected to be diverted from the Greater San Francisco casinos (EIS/EIR Appendix T, p. 5 will come from CSP. By

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<sup>1</sup> Based on ABAG's publication, *Projections 2007*, the City of San Pablo had the lowest average (mean) household income in 2005.

including CSP in the far-flung grouping called "Greater San Francisco," the extent of the impact on CSP is masked.

Third, CSP is a Class II casino, which clearly can't compete with a Class III casino located so close to it. It is possible that the CSP facility will not remain profitable when faced with nearby competition from a resort Class III casino; at the least most or all of the revenue will disappear. Even if CSP wanted to change to Class III, it is unlikely such approval will be given since the Legislature already has made known its opposition to allowing Class III on the I-80 corridor in the East Bay. If there is a significant decrease in revenue to the Class II CSP facility, or if CSP successfully transitions to a Class III in order to be competitive with the new Point Molate casino, the City of San Pablo will suffer a significant loss of revenue, leading to severe adverse socio-economic impacts and urban decay,<sup>2</sup> which must be evaluated under NEPA and CEQA respectively.

Fourth, the Point Molate casino will cause a dramatic reduction in revenue to the City of San Pablo. The Municipal Services Agreement (MSA) between the City and the Lytton Rancheria Band of Pomo Indians (the Tribe) regarding CSP provides for the payment of a portion of the revenues to compensate the city for the provision of services. The MSA provides that the Tribe will pay 7.5 percent of the gross gaming revenues from Class II gaming, with no maximum, or 5.4 percent of gross gaming revenues from Class III gaming, to a maximum of \$3.5 million per year (Section 7, *Compensation, Charities and Benefits*, of the MSA).

For Fiscal Year 2008-09, the City received \$12 million dollars in revenue from CSP. This represented approximately 66 percent of the City's General Fund budget of \$18.2 million. Should CSP gross gaming revenues decline by \$100 million (out of the projected \$174 million cannibalization from the casinos in the Greater San Francisco area), this would represent a \$7.5 million loss in revenue to the City. This loss would be 40 percent of the annual General Fund balance. Alternatively, if CSP were able to convert its operation to a Class III casino, then payments to the City would be capped at \$3.5 million. This eventuality would result in a loss of approximately \$8.5 million based on the 2008-09 revenues.

Should the Point Molate casino become operational as a Class III facility, the effect on operations in the City of San Pablo will be immediate and drastic. Police services will be substantially cut. Recreation programs will be substantially cut or eliminated. Aid to the School District would cease. Street and sidewalk repair and graffiti abatement will be drastically reduced. Dozens of employees of the city would be laid off including maintenance workers, planners, engineers and as many as twenty five police officers. Public safety, public service, and the welfare of those living and working in San Pablo would be greatly compromised. Urban decay would be the inevitable result.

The City of San Pablo requests that a specific economic impact and market analysis be

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<sup>2</sup> Recent findings by the State of California's Appellate Court (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4<sup>th</sup> 1184) have interpreted the requirements of the California Environmental Quality Act (CEQA) as requiring disclosure of the possibility for "urban decay"....

done to evaluate the impacts of the proposed Point Molate Casino on CSP and revenue to the City of San Pablo. The analysis should also include the potential cumulative analysis should the Scotts Valley and Santa Rosa Casinos also proceed. The City requests this analysis for the following reasons:

- a. No other casino in Northern California is located in such close proximity to another casino.
- b. CSP is the only Class II casino in Northern California.
- c. The City of San Pablo derives approximately two-thirds of its annual General Fund budget from revenue from CSP under its MSA.
- d. The loss all or part of this revenue would have extensive and significant adverse impact on San Pablo's ability to provide basic municipal services.
- e. San Pablo is a low-income, minority community. In fact, its median and mean household incomes are less than those for the City of Richmond, resulting in greater environmental justice issues in comparison with the City of Richmond.

Without this information, it is not possible to properly assess the socio-economic and environmental justice impacts from the proposed Project for the following significance criteria:

An impact would be significant if it would:

- Substantially negatively alter the ability of the local economy to perform at existing levels, from the effects of substantial losses to businesses (for example revenues or employees) or government (for example tax revenues).
- Negatively alter the ability of people to obtain public health and safety services.
- It disproportionately and adversely affects an identified minority or low-income community or Indian tribe.

The economic impacts of the project on the economic health of the City and residents of San Pablo are even more severe when the current economic situation in the City is considered.

The economic impacts of the project on the economic health of the City and residents of San Pablo are even more severe when the current economic situation in the City is considered. Since the adoption of the City's FY 2009/10 budget on July 1, 2009, the Redevelopment Agency has lost approximately \$9.1 million as a result of a 24% decrease in assessed property value and taxes by the State of California. These losses are expected to continue over the next few years as property values continue to decline. Another pending threat to the Redevelopment Agency's fiscal health will be starting in 2012/13, Contra Costa County will be taking what remains of our tax increment after debt service. The City will then be 100% dependent on the General Fund for street repairs. If the CSP revenue is impacted the City will not have any way to maintain its infrastructure. Additionally, revenue to the General Fund for FY 2009/10 was decreased by \$255,000 due to Prop 1A taxes by the State and loss of sales tax revenue.

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Should this specific economic impact and market analysis of the impacts of the proposed Point Molate Casino on CSP and revenue to the City of San Pablo identify potentially significant impacts based on the foregoing significance criteria, then the EIS/EIR would have to be re-circulated with updated analysis and additional mitigations. It may also require consideration of additional project alternatives in light of impacts on the City of San Pablo, a low-income, minority community.

## **2. Transportation Impacts**

The City of San Pablo has concerns about transportation impacts because the adversely affected intersections, freeway links, roadways and Richmond-San Rafael Bridge are located within or proximate to the community, and are used by its residents to commute to work and recreation, and by local businesses to receive supplies and provide service to customers. A well functioning transportation system is a critical factor for the economic development in the region.

**Ferry Service.** The provision of ferry service is treated as part of the Project. Ferry service is not identified as a mitigation measure, nor is there any analysis done of what traffic impacts would be if ferry service is not provided. The EIS/EIR (Appendix S) includes a letter dated December 15, 2008 from the Blue and Gold Fleet advising that there is capacity in the current ferry system and that ferry services may be provided to the Point Molate site "without a significant increase in routes or costs." However, the letter notes that the purchase of an additional ferryboat would be required to provide the Tiburon ferry service. Changes would also have to be made to the Point Molate Pier. Given the issues with establishing ferry service to Point Molate, it is not certain that it will be provided. Without ferry service, there would be substantially more traffic generated from the casino facility. The Transportation Impact Analysis (TIA) should be updated to include analysis of the transportation impacts that would occur if the ferry service were not provided.

**Match for Fair Share Payments.** The mitigation measures for impact at a number of intersections and at the Richmond San Rafael Bridge toll Plaza provide for the payment of a "fair share" portion of the overall cost of the identified improvement. However, this leaves the source of funding for a significant portion of the cost of each improvement unaccounted for. Payment of fair share does not accomplish the necessary improvements when there is no source to pay for the balance. The EIS/EIR should identify sufficient funding available, or likely to be available, for the total cost of the improvements. Absent this, the mitigation measures should be expanded to require that only the portion of the Project which can be accommodated by the existing transportation system can be built and that the project must be phased in as funding is available for the various transportation improvements. If this mitigation measure is not included, then there will be significant adverse transportation impacts.

**Special Event Traffic.** There is insufficient analysis of special event traffic in the EIS/EIR. The arrival of vehicles at a special event is generally spread over a longer time period compared with departure at the end of a special event. Although the end of an event likely would be outside of the AM or PM peak, there is only one access point to the site and the impact of the traffic volumes leaving the site, particularly on the Richmond-San Rafael Toll Plaza, should be evaluated. The TIA assumes that special event traffic will not coincide with PM peak but there is no mitigation measure specifying the earliest starting time of evening special events to ensure no conflict. Such a mitigation measure should be added. These trip reduction rates should be more conservative and the impact analysis revised.

**Reductions in Trip Generation for Operation of Casino/Resort.** The initial TIA prepared by DMJM Harris/AECOM dated June 2008 and the supplemental TIA prepared by Abrams Associates dated April 2009 differ in the trip reduction estimates for various factors that would reduce traffic, as summarized in the following table:

<b>Trip Reduction</b>	<b>DMJM TIA</b>	<b>Abrams TIA</b>
For Ferry operations	25%	15%
For Transportation Demand Management (TDM)	10%	15%
Capture of bypass trips	10%	15%
<b>Total Trip Reduction</b>	<b>45%</b>	<b>45%</b>

These discounts are too aggressive for an EIR/EIS that is supposed to evaluate impacts on a conservative, worst case scenario basis. The more conservative trip reduction assumption from each consultant should be used. This would result in a maximum of 15 percent reduction for the use of ferries, and a maximum of 10 percent each for TDM and capture of bypass trips for a maximum total of 35 percent trip reductions.

The TIA analysis also makes very aggressive assumptions for reducing trip generation because of the mixed-use nature of the Project (see p. 5-5). No basis for the trip reductions for mixed use are provided in the TIA. Trip generation for the hotel use is reduced by 70 percent for the hotel because the guests' travel is already included in the traffic projections for the casino. The remaining 30 percent leaves barely enough trips to account for hotel employees and service deliveries. This assumes that hotel guests will not be doing sightseeing in the Bay Area and that business travelers would not attend meetings outside of the casino/resort. The TIA also uses a 50 percent discount for trips related to the retail development because these trips have already been included in the traffic projections for the casino. Trip reduction rates for mixed-use development, as reflected in zoning ordinances for communities in the Bay area, are more commonly 10 to 25 percent. The EIS/EIR should provide justification for trip reduction amounts used in the TIA.

**Reductions in Trip Generation during Construction.** The project description states that the majority of excess fill material will be exported from the site by barge, rather than by trucks, substantially reducing the number of truck trips required (EIS/EIR p. 2-29). The DMJM TIA states that the total excess fill material is 2.7 million cubic yards

and that the construction impacts are based on 85.2 percent of this material being exported from this site by barge (p.9-1). Only 400,000 cubic yards of material would be exported from the site by truck.

The site includes several areas of soil contamination that are not yet remediated. The amount of materials that need to be removed from the site to a landfill and not reused may increase as these sites undergo cleanup. Additionally, depending on where the excess fill material will be reused, it may or may not be practical to remove it from the Project site by barge. If there is even a small change in what is removed from the site by barge, this could have traffic impacts. For example, if an additional 10 percent of the excess fill material were to be removed from the site by truck rather than by barge, this would result in an additional 13,500 truck loads being removed from the site. Assuming that each load represents a trip to and a trip from the site, this would generate an additional 27,000 truck trips on Western Avenue.

In order to provide an appropriately conservative evaluation of impact, The EIS/EIR should provide evaluation of construction impacts with an assumption of a lower amount of the excess fill being removed from the site by barge. This will result in a greater amount of construction traffic.

**Conversion of Bridge Breakdown Lane to a Travel Lane.** One of the proposed transportation mitigation measures is to provide three lanes on the Richmond San Rafael Bridge by removing the breakdown lane. The traffic analysis assumes that the additional third lane will carry the same traffic volume as the two existing lanes. There is no adjustment to account for the fact that the loss of the breakdown lane will adversely affect the traffic volumes per lane. This is not realistic. The operational impacts of not having a breakdown lane can be clearly seen on the San Francisco Bay Bridge, which does not have a breakdown lane. Stalled vehicles or minor accidents routinely cause increases in congestion on the Bridge during peak commute hours as traffic behind stopped vehicles change lanes to maneuver around the obstacle. The TIA analysis should be revised to reduced the number of vehicles per lane per hour with the removal of the breakdown lane.

**Refinery Annual Maintenance and Five-Year Turnarounds.** The Chevron Refinery conducts an annual maintenance period and a major five-year maintenance and improvement period. Construction activity is concentrated into these time periods to limit the amount of down time at the Refinery. There is no analysis of traffic impact during Chevron's annual shutdowns for repairs or 5- year turnaround events at the Refinery. These are very intense construction periods with significant traffic generation. The EIS/EIR should include evaluation of traffic impacts that include the traffic during such maintenance periods at the Refinery.

**Proposed Mitigation Measures Preclude a Bicycle Lane on Bridge.** The proposed mitigation measures for improvements to the toll plaza include the replacement of the breakdown lane on the Richmond-San Rafael Bridge with an additional travel lane. There have been requests and discussion regarding using the breakdown lane for a

bicycle lane. The proposed mitigation measure would preclude this option, and limit the development of a better and more complete system of bicycle lanes.

### **3. Biological Impacts**

The EIR/EIS discusses the potential impact of the construction and operation of the Project on the eelgrass beds located in the shallow water adjacent to the shoreline of the Project site and provides mitigation measure MM 4-8. The eelgrass is critical habitat for some special-status fish. The analysis and mitigation measure for the impact on the eelgrass are insufficient for the following reasons.

The construction of the Project includes the exporting of excess fill material by barge. This will require movement of trucks along the pier to deposit the material into the barge, or alternatively a method of conveying the material to barges anchored near the shore. In either case, there will be dust generated by the handling of the materials along the shoreline and/or out onto the pier. The barges would typically be moved by tugboats, which can generate significant wave action close to shore. There has been no assessment of this particular construction activity on the eelgrass. Eelgrass can be affected by particulates, which cloud the water and reduce sunlight to the plants, or disrupted by the scouring effects of wake from boats. The biological impact evaluation needs to be revised to include the analysis of these potential impacts.

Mitigation measure MM4-8 is also inadequate. It simply provides that keeping the ferries 100 feet from the eelgrass is sufficient. The impacts on the eelgrass can come from construction impacts, or operation of the casino, including ferry operation. The mitigation measure must be revised to include the following:

- Removing some eelgrass prior to the commencement of construction on the Project site and propagating it elsewhere for restoration planting should this be necessary.
- Surveying the eelgrass beds prior to any construction activity to establish a baseline condition.
- Surveying the eelgrass beds at regular intervals during construction and then during operation for a period of five years, especially if there is ferry operation, to ensure that the boundaries of the eelgrass bed and the density of individual plants do not decline because of impacts from the casino complex.
- Restoring the eelgrass beds and changing construction or operation activities in the event that the periodic surveys do find an impact on the eelgrass. The mitigation measure should require an evaluation prepared by a qualified biologist to determine the likely cause of the impacts and recommend the changes to be implemented.

### **4. Public Health and Safety:**

**Single Point of Access.** The EIR/EIS discusses the need to have emergency response plans developed for the casino complex but does not provide any analysis of the potential



problem of having a single access road to such a major facility. There is no analysis that indicates that Western Drive will be sufficient for evacuation and emergency response. Without further analysis, it is not possible to conclude that the access is sufficient and that no additional emergency access into the site is needed. The EIS/EIR evaluation must include a specific evaluation of adequacy of the single access point for emergency evacuation and response. This is essential as the Project site is located within a Very High Fire Severity Zone EIS/EIR (Figure 3.12-4), and is surrounded by the Chevron Refinery.

**Risk Management Plan.** The Chevron Refinery is required to prepare and comply with a Risk Management Plan (RMP) under the California Accidental Release Program (CalARP). The Plan provides a risk assessment that includes a Worst Case Scenario and an Alternative Release Scenario. Chevron's Risk Management Plan prepared in 2002 places the entire Project site within the areas affected by the Worst Case Scenario and three-quarters of the site within the area affected by the Alternative Release Scenario. The 2002 Navy EIS/EIR found that there was a potentially significant impact related to risk and that there were no feasible mitigations, leaving the impact as significant and unmitigatable (EIS/EIR, p. 3.12-7).

The EIR/EIS relies on a study commissioned by the Project proponent that dramatically reassesses the potential impact on the site from an accident at the refinery (EIS/EIR Appendix M Anhydrous Ammonia Consequence Modeling Analysis prepared by Marine Research Specialists, dated January 2007). The Marine Research Specialists report comments as follows on the Chevron 2002 RMP, which was used in preparing the Navy EIS/EIR for the Disposal and Reuse of Point Molate:

The assumptions required by U.S. EPA for use in the WCS analysis are very conservative, in many cases, unrealistic, and provide results that are unlikely to occur (p.6).

It appears that the Marine Research Specialists report does not comply with U.S. EPA rules, assumptions and models, although this is not explicitly stated in the report. The Marine Research Specialists analysis used different assumptions and modeling to factor into the risk assessment the controls Chevron has in place to prevent and protect against a catastrophic ammonia release, topographic conditions and other environmental conditions such as prevailing wind direction, wind speed, etc.

Again, EIR/EIS assessment should be conservative, particularly given the single access road to the Project site, and the placement of a major casino complex where it is completely surrounded by heavy industrial operations. The risk assessment prepared by Chevron should be used as the basis to assess Refinery accident risk for the EIS/EIR, not the Marine Research Specialists report.

**Reduction in San Pablo Public Safety Staff.** Under Section 1 of this letter, the potential fiscal impact on the City of San Pablo was described. Clearly, this potential revenue impact would have a significant impact on the ability of the City to provide

police services. There is no analysis about the impact to public safety should the loss of revenue to San Pablo occur. The EIS/EIR must be revised to provide this evaluation.

## **5. Insufficient Alternatives Analysis**

There is an insufficient range of alternatives evaluated in the EIR/EIS. All alternatives that include taking tribal land-in-trust have the full casino component. There is no reduced casino alternative, and no alternative of economic development for the tribe on site that does not include a casino. Also, there is no alternative which provides land for economic development for the Tribe in other locations other than the 44-acre site the Tribe holds near Ukiah which has already been developed with housing for the Tribe. This offsite alternative could be combined with a non-gaming mixed use development at the Project site to provide Richmond with the necessary economic development.

Because the proposed Project has the potential for significant impact on a low-income, minority community, there is a greater need for consideration of alternatives that have the potential to avoid such impacts. At a minimum, the following additional alternatives should be evaluated:

**No Gaming, Lands-in-Trust Alternative:** This alternative would provide that Point Molate is taken into trust for the Tribe. However, the economic development on the site would not include a casino. Instead, the Project would include a mixed-use project, including components such as a conference center, a retail, recreational opportunities and tourism related to the historic Winehaven site. In order to reject such an alternative, the EIS/EIR should include a fiscal analysis outlining the construction and operating costs of such an operation and the potential revenue and job generation and why the revenue and job generation would be insufficient economic development for the Tribe.

**Provision of Lands-in-Trust Off-site and a No Gaming, Mixed-Use Alternative:** This alternative would provide that Point Molate is developed with a non-gaming mixed-use project, perhaps similar to that proposed in Alternative D. Additionally, off-site locations for lands to be taken in trust for the Tribe and used for economic development would be included. This could include the acquisition of lands near their traditional home or other sites not proximate to Casino San Pablo.

## **6. Incomplete Project Description.**

The project description is incomplete because it does not include the California Governor's approval of a gaming compact, or the Governor's consent to early transfer of the lands still held by the Navy before the hazardous materials onsite are remediated as approvals required for the project to proceed. The Section 1.6 of the EIS/EIR, *Regulatory Requirements*, must be revised to include these additional approvals required for the Project.

The City of San Pablo looks forward to the opportunity to review and comment on a revised and re-circulated EIS/EIR and the Responses to our comments.

Sincerely,

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Leonard R. McNeil  
Mayor, City of San Pablo

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# Attachment B

## MEMO



CITY OF SAN FRANCISCO  
Office of the City Manager

**To:** Brock Arner, City Manager

**From:** Avanindra Gangapuram, Planning Division Manager

**Date:** August 13, 2009

**Subject:** Point Molate Resort and Casino Project

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Staff attended the August 12, 2009 public hearing meeting and Below are some of the public comments the City of Richmond's Design Review Board received for the Point Molate Draft Environmental Impact Statement/Environmental Impact Report (DEIS/EIR).

### **Statements in favor of the Project:**

- 1) Project will bring 17,000 jobs, generate revenue, reduce crime and clean-up Richmond. **(Recurring statement)**
- 2) This project will bring opportunities for Richmond. **(Recurring statement)**
- 3) This is one of the best designed plans.
- 4) Chevron had 1,000s of layoffs and this project will bring jobs to Richmond.
- 5) This project will meet the needs of the community. **(Recurring statement)**
- 6) Revenue generated by the Casino should be directed to preschools and elementary schools.
- 7) This project is not only for a Casino but for a resort also.
- 8) Alternative A has a good balance between economic interests and environmental concerns.
- 9) Alternative A's resort option is good.

### **Statements against the Project:**

- 1) Too much existing traffic. The project is located in a pristine area.
- 2) We need to complete the Bay Trail.
- 3) Richmond is not a tourist town and it does not like strangers.
- 4) Indian Tribes should be given better land.
- 5) Alternative D is better and the character of the Bay Area will change dramatically.
- 6) The project should address access issues for small local businesses and residents during the 5-year construction period. **(Several people expressed a similar concern)**
- 7) Traffic and noise will be major problems.
- 8) A forensic psychologist stated that long term impacts of Casinos are hugely detrimental: crime, alcohol, domestic and child abuse, violence, etc.
- 9) A professor claimed that the S.F. Bay Area communities will generate 60% of the revenue but receive only 40% in return.

30-21

10) The General Plan Advisory Committee proposed Option 2, which was not examined by the Draft Environmental Impact Statement/ Environmental Impact Report. Richmond youth have criminal records and many Richmond residents have foreclosed properties and they will not get jobs.

11) Richmond citizens were never allowed to vote on this project.

12) The Casino will be too close to Chevron. Chevron offered to pay \$34 million, to the City of Richmond, to buy the Point Molate properties and avoid large number of people near the hazardous Chevron facilities.

# Attachment C



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August 3, 2009

73 Belvedere Ave.  
Richmond, CA 94801  
Phone/Fax: 510-235-2835  
Email: tracbaitrail@earthlink.net

Ms. Lina Velasco, Senior Planner  
City of Richmond Planning Division  
P.O. Box 4046  
Richmond, CA 94804

Dear Ms. Velasco:

TRAC, the Trails for Richmond Action Committee, appreciates the opportunity to comment on the DEIS/DEIR for Point Molate Mixed-Use Tribal Destination Resort and Casino. TRAC's mission is to "Complete the San Francisco Bay Trail in Richmond, assuring that it is linked to public parks and population centers and maintained in perpetuity". Hence, our comments are limited to completion and use the Bay Trail for both transportation and recreation with aesthetic enjoyment of the trail and related park lands.

In summary, TRAC finds that the DEIS/DEIR should be revised to:

1. provide Bay Trail connections between the project site and the community in order to comply with the City of Richmond General Plan and implement mitigation measures needed to reduce significant transportation and air quality impacts and
2. recognize, evaluate and mitigate the severe aesthetic impacts of Alternatives A, B, C and D on users of the Bay Trail and shoreline parks.

### **Bay Trail Connection With The Community**

The Point Molate mixed use project and proposed mitigation measures are designed to facilitate motor vehicle traffic. The project definition includes widening of Western/Winehaven Drive to five lanes between I-580 and the project site, and specific traffic mitigation measures are proposed at intersections of I-580, the Richmond Parkway and I-80 as distant as Blume Drive and in Marin County. **However, the project definition does not provide any pedestrian or safe bicycle access to the site, leaving it isolated from the community.**

Currently, it is impossible to walk between City of Richmond residential areas and the site of the Point Molate mixed use development. Moreover, bicycling on the freeway is very hazardous as demonstrated when a motorist veered out of the vehicle lane on I-580 killing one bicyclist and severely paralyzing another. A Bay Trail connection with the community is needed for compliance with the General Plan and also to reduce the project's motor vehicle traffic and emissions of air pollutants.

The Richmond General Plan contains many strong provisions requiring that new projects provide pedestrian and bicyclist access in general and the Bay Trail specifically as detailed in the Attachment entitled "Richmond General Plan Provisions for Pedestrian and Bicycle Access and Completion of the San Francisco Bay Trail". Consistency of projects with General Plans and other planning documents is an essential component of CEQA review. For example, CEQA requires the DEIR to discuss inconsistencies with general and regional plans. (Guidelines § 15125(d))

General Plan Circulation Element Map 2 specifies a Class I trail, i.e. the Bay Trail, along the shoreline from the project site to the existing trail under the Richmond San/Rafael Bridge and continuing to Point Richmond, as well as bike lanes on Western Drive north of I-580. Moreover, General Plan Goal OSC-S states:

"Establish public routes that enhance non-motorized circulation and that complement the City's Circulation Plan." with Implementation Program 1:

**"City will require all new ... developments to provide public access where a local or regional trail (e.g, Bay Trail ...) is planned (emphasis added)."**

Quotations from other especially relevant requirements of Richmond's General Plan include (emphasis added):

- Promote access to the City's recreational areas, shoreline area ....
- Maintain a safe, effective and attractive bicycle and pedestrian circulation system with particular emphasis on the San Francisco Bay and the Bay Area Ridge Trails and **ensuring that new or existing developments are interconnected.**
- Provide a network of bicycle routes offering safe and easy access to all portions of the City.
- Establish right-of-way for the Bay Trail ... in cooperation with the EBRPD and the respective trail council.
- City will coordinate with EBRPD and ABAG on the design and development of trail links.

For the Shoreline, the General Plan states:

- Promote more effective movement of people to and within the shoreline areas by ... development of convenient bicycle and foot trails.
- Promote circulation facilities in the shoreline areas that will assist inland residents in taking advantage of the shoreline.
- Encourage development of a system of hike/bike trails through the shoreline



**area as shown on Circulation Plan Map 2.**

The Community Facilities Element for the West Shoreline states "Encourage the creation of a recreational corridor along the western shore of Point San Pablo through trail connections between parks and commercial recreation sites."

A Bay Trail connection with the community is required to both implement these provisions of the General Plan and implement Mitigation Measures such as MM 3-17 f. requiring "The Tribe shall provide and fully fund showers for employees bicycling and walking to work" and MM 3-18 g. stating "The Proposed Project would be located within one-half mile of an existing/planned Class I or Class II bike lane.

The DEIS/DEIR recognizes the need for this Bay Trail connection between the project site and the community in recommending:

- MM 3-17 c. "The Tribe shall provide and fully fund sidewalks and/or paths, connected to adjacent land uses, transit stops, and/or community-wide network",
- MM 3-17 h. "The Tribe shall provide and fully fund safe, attractive pedestrian access from project to transit stops and adjacent developments, and
- MM 3-20 h. "The Tribe shall assist in funding the improvements necessary to connect the Bay Trail south of I-580 to the proposed segment north of the freeway."

Mitigation measures MM 3-17 c & h and 3-20 h need to be made enforceable by clarifying that this mitigation includes both of the following two necessary Bay Trail segments:

1. from the combined Golden Gate and AC Transit bus stop at Castro Street and Tewksbury Avenue to the existing trail under the Richmond/San Rafael Bridge and
2. from the north side of the trail under the bridge along the shoreline to the southern border of the project site at Point Molate Beach.

As described below, design, permitting and construction of these two Bay Trail segments is expected to cost about \$18 million. The Point Molate project should provide funding to design, permit and construct these Bay Trail segments representing its proportion of total trips to/from the Point San Pablo Peninsula based on implementing the 1994 Richmond General Plan and 2005 San Pablo Peninsula Open Space Study.

#### Bay Trail South of I-580:

The City of Richmond has committed about \$1.8 million to prepare a project study report and construction documents for closure of the Bay Trail gap between the bus stop at the intersection of Castro Street and Tewksbury Avenue and the existing trail under the Richmond/San Rafael Bridge. It is estimated that an additional \$15 million will be required to prepare environmental documents, obtain necessary permits and build this trail segment.

### Bay Trail Between I-580 and Point Molate:

The Point Molate mixed use project includes widening Western/Winehaven Drive to five lanes in order to facilitate motor vehicle flow between I-580 and the project site; however, does not include the Class I Bay Trail linkage needed along the shoreline between the existing trail under the Richmond/San Rafael Bridge and the southern border of the Point Molate property at Point Molate Beach Park. The DEIS/DEIR states on page 2-24 first paragraph that "Connection of the Bay Trail from the Interstate 580 underpass and the southern border of project site .... is beyond the scope of the Proposed Project".

The project's proposed widening of Western/Winehaven Drive as shown in Figures 2-6 a & b does not provide for construction of sidewalks or bike lanes even though Circulation Element Map 2 specifies bike lanes on Western Drive north of I-580 and General Plan Circulation Element Policy C.4 requires "Integrate bike facilities in new roadways". Also, General Plan Goal OSC-S Implementation Program 2 states "City will incorporate trail design in the street standards to be adopted for new collector roads and for the improvements to other existing streets .." This failure to comply with the General Plan should be mitigated by funding completion of the Bay Trail between the project site and the bus stop at the intersection of Tewksbury Avenue and Castro Street.

As shown on General Plan Circulation Map 2, the planned Bay Trail route follows the shoreline of San Francisco Bay, rather than going inland from I-580 over a steep hill past Chevron tanks as does Western Drive. The DEIS/DEIR errs on page 2-24 first paragraph in assuming that the Bay Trail "... would likely be a spur along Western/Winehaven Drive." It even contains the erroneous statement on page 4.9-10 paragraph one that construction of the Bay Trail on the shoreline would be inconsistent with the General Plan.

The planned Bay Trail route along the shoreline as shown on Circulation Element Map 2 is consistent with General Plan OSC-S.4. stating "Protect hiking and biking paths from conflicts with motorized vehicles to the greatest extent possible". Fortunately, East Bay Regional Park District has been working to acquire the right of way needed to develop the planned Bay Trail from the I-580 corridor along the shoreline to the City's Point Molate property and also northward from the project site around Point San Pablo to the yacht harbor as called for in their Master Plan.

The Final EIS/EIR should specify mitigation funding to design, permit and build the Bay Trail segment needed to connect the project site with the existing trail under the Richmond/San Rafael Bridge. Based upon escalation of costs in ABAG's September 2005 San Francisco Bay Trail Gap Analysis Study, this trail segment is estimated to cost about \$1.2 million.

### **Aesthetic Impacts on Enjoyment of Bay Trail and Related Park Lands**

Alternatives A through E include construction and operation of the Bay Trail with 35 to 45 acres of park lands along the shoreline of the project site. Richmond General Plan West Shoreline Area Specific Guideline states "Preserve views of the Bay and the regional landscape from the trails and open spaces along the shoreline areas". However, the DEIS/DEIR, e.g. Sections 2.9, 3.13 and 4.13, does not recognize and evaluate aesthetic impacts of development alternatives on users of the Bay Trail and shoreline park lands.

The document errs in asserting that "Potential impacts to the aesthetic character of the project site and surrounding area would be similar for Alternatives A through D and would be less than significant with implementation of the recommended mitigation" (Section 2.9 page 2-71). It is inconceivable that the aesthetic impacts of Alternatives A, B, C and D on scenic vistas and the visual character or quality of the site and its surroundings could be reduced to a less than significant level by implementation of landscaping MM 12-1 and design MM 12-2.

It simply is not credible to claim that landscaping and design could eliminate aesthetic impacts upon views of Winehaven Historic District buildings caused by adding:

- a 160 feet high new Casino Hotel structure adjacent to the historic Winehaven building containing a casino, 800-room hotel, and 2,500-seat entertainment complex,
- a 275-room Point Hotel 105 feet high with associated parking near Point Molate,
- a "Retail Village" of 300,000 square feet -- only slightly smaller than Corte Madera Town Center -- parallel to the shoreline, etc.

all visible from the shoreline park and Bay Trail.

The DEIS/DEIR does not provide visual data to illustrate whether/how aesthetic impacts of the proposed alternatives could be reduced to less than significance through landscaping and design. Indeed, Figure 2.5 portrays a large, adverse visual impact. The inclusion of a 12 to 14 story hotel, casino, retail and entertainment complex directly adjacent to the two story historic Winehaven building would make it very difficult to have a minimal impact on historic resources.

Mitigation 12-2 also should have requirements for a substantial setback around the main Winehaven structure, i.e. there should be enough of a setback so that new structures are seen as separate when viewed from the Bay, Bay Trail and park lands.

Table 2-8 on page 2-66 misleads the public, as well as lead and responsible public agencies, in stating that Alternatives A, B, C, D & E all have "similar" aesthetic impacts. For perspective, the document should clearly state that Alternatives A & B

have the most severe adverse aesthetic impacts whereas Alternatives E and F have the least. Among casino alternatives A, B & C, Alternative C Reduced Intensity has the least aesthetic impact with its less intensive development of hotel, conference, entertainment and retail facilities, including elimination of the Point Hotel with its related parking, casitas, etc. near the shoreline.

### **Land Use Planning Impacts**

The EIS/EIR should recognize that Alternative C offers the benefit of increasing shoreline park acreage from 35 to 45 acres and Hillside Open Space from 145 to 191 acres. It also should be highlighted that Alternatives A, B and D do not provide the 156 acres of Hillside Open Space called for in the Reuse Plan.

Thank you very much for considering TRAC's comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce Beyaert", with a stylized, flowing script.

Bruce Beyaert, TRAC Chair

Attachment - Richmond General Plan Provisions for Pedestrian and Bicycle Access and Completion of the San Francisco Bay Trail

cc: Bill Lindsay  
Janet Schneider  
Richard Mitchell

**Attachment**  
**Richmond General Plan Provisions for Pedestrian and Bicycle Access and**  
**Completion of the San Francisco Bay Trail**

To quote, the Richmond General Plan requires:

CIR-A.5: Promote access to the City's recreational areas, shoreline area ....

CIR-B.3: Maintain a safe, effective and attractive bicycle and pedestrian circulation system with particular emphasis on the San Francisco Bay and the Bay Area Ridge Trails and ensuring that new or existing developments are interconnected.

CIR-C.3: Provide a network of bicycle routes offering safe and easy access to all portions of the City.

CIR-C.4: Integrate bicycle facilities in new roadways.

OSC-S: Establish public routes that enhance non-motorized circulation and that complement the City's Circulation Plan.

**Implementation Programs:**

1. **City will require all new ... developments to provide public access where a local or regional trail (e.g, Bay Trail ...) is planned** (emphasis added).

2. City will incorporate trail design in the street standards to be adopted for new collector roads and for the improvements to other existing streets ...

**Shoreline - General**

- Promote more effective movement of people to and within the shoreline areas by ... development of convenient bicycle and foot trails.
- Promote circulation facilities in the shoreline areas that will assist inland residents in taking advantage of the shoreline.
- Encourage development of a system of hike/bike trails through the shoreline area as shown on **Circulation Plan Map 2**.
- Ensure that adequate bicycle and pedestrian pathways and crossings, linked to shoreline trails ... are built in connection with highway improvements.

**Community Facilities - West Shoreline:** Encourage the creation of a recreational corridor along the western shore of Point San Pablo through trail connections between parks and commercial recreation sites.

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