

CITIZENS FOR EAST SHORE PARKS
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November 19, 2020

To: City of Richmond Planning Commission
From: Shirley Dean, President, Board of Directors, Citizens for East Shore Parks
Re: PUBLIC COMMENT: Item 3, Planning Commission Agenda, November 19, 2020
Vesting Tentative Map, Use Permit, Development Agreement and Addendum to
Richmond Bay Specific Plan Environmental Impact Report (EIR) for the Campus Bay
Mixed-Use Project (PLN20-310)
Via: E-mail

Dear Chairperson Tucker and Members Agarwal, Baer, Brubaker, Huang, Loy and Soofiani,

The following are comments submitted by Citizens for East Shore Parks (CESP) regarding the Campus Bay Project (PLN20-310) as indicated above.

Nowhere in the voluminous amount of material that has suddenly and recently been presented to the public is the answer to the question which we asked a week ago – why is the City of Richmond considering this project when an actual proposed detailed project has not yet been received?

The City of Richmond has received not a plan but a proposed concept wherein 71% (63.7 acres) of Sub Area 4 (89.6 acres) would be used for 50,000 square feet of retail/business/service uses, including a grocery store, and not less than 2,000 nor more than 4,000 residential uses, and around 5 acres of new open space. Also, within the area there will be construction of a trailhead with parking and restrooms for the San Francisco Bay Trail although it is unclear whether this will be included in the new open space. However, ALL of these uses will be located on one of the most contaminated sites in the State of California and decisions are being made at a time when members of the public have been exhausted by 10 months of dealing with a Global Pandemic which today is giving every indication of worsening.

Considering this concept at this time violates both the basic tenet of democracy which is to provide full opportunity for reasonable public participation and plain old ordinary common sense. Real CEQA impacts are not being considered based on the idea that they have already been studied when the Richmond Bay Specific Plan (RBSP) was adopted in 2016 so only an Addendum is now required. The Addendum more than doubles the number of residential units allowable in the RBSP from 1,590 to up to 4,000. And in the intervening four years, new science discoveries particularly around sea level rise and greenhouse gas emissions have produced a rapidly changing environment which cannot be ignored either by the people living within the plan's boundaries or in surrounding communities.

The 116-page complicated Addendum was just posted for the public to read, no public hearing has been held or is planned to be held on that document. A financial analysis is not yet available to the public but may come to light on November 19. Details such as construction documents have not been presented. Staff reports dated November 10 indicate that approving what is before the Planning Commission tonight will freeze certain fees and process requirements which leads to the question are we to conclude that this is a method by which the

developer is seeking protection from what might potentially be a looming future increase? You must decide whether approving what is before you tonight is in the best long-term interests of the people in the City of Richmond and beyond. Given the lack of information and the time frame in which information is being presented, deprives you and the public of your essential participation with thoughtful consideration of all factors of a proposed project in the process of evaluating a major project in the City of Richmond. As we have said before, this is neither good planning nor good government.

While a list of around \$22 million of community benefits has been presented to the Council, without the essential knowledge provided by an actual proposed project, how is it possible to consider this list? Staff has advised the Council that the Development Agreement (DA) will also serve as the Community Benefits Agreement and also that in some way the Council's recent meeting and this one before you will serve as "community input" to the DA. This list includes such items as paying prevailing wages to construction workers, hiring Richmond First and funding for the Apprentice Program. There is no question that these are appropriate and good Community Benefits items, but at this time, can you ensure that these workers will be performing their duties in a safe working environment? What will the liability be from health-related lawsuits that will flow from the City of Richmond allowing this to happen under the circumstances present at this time? The sad history is that the community through the officially recognized Richmond Southeast Shoreline Area Community Advisory Group (CAG) has been demanding a robust clean-up of this site for more than 17 years and this cleanup has not happened, nor is it likely to happen in the concept before you,

Known to the community as the Stauffer Chemical, now Zeneca site, this site was used for 100 years (1897-1997) for heavy industrial and manufacturing uses such as the manufacture of sulfuric acid, pesticides, superphosphate, carbon disulfide, aluminum sulfate, ferric sulfate, and titanium trichloride. These industrial operations have resulted in extensive contamination of soil, groundwater and soil vapor. There are now present on the site over 100 chemicals of concern many of which are known as the "dirty dozen" that have been determined to cause cancer, reproductive damage and other serious health problems. To name a few, these are: Metals, such as arsenic, lead, mercury, radium and uranium; and Pesticides, such as DDT; and Volatile Organic Compounds (VOCs) such as benzene, PCBs, chloroform and carbon disulfide. The synergistic effect from the mixing of chemicals as was done here for years leads to health damage that understates the damage that would be caused by a single chemical. As stated by the Canadian Center for Occupational Health and Safety, <https://www.ccohs.ca/oshanswers/chemical/synergism.html>.

"In toxicology, synergism refers to the effect caused when exposure to two or more chemicals at one time results in health effects that are greater than the sum of the effects of the individual chemicals."

"When chemicals are synergistic, the potential hazards of the chemicals should be re-evaluated, taking their synergistic properties into consideration."

The concept that is being presented today indicates that their intention is to create residential areas that will be economically diverse. Existing ordinance requirements allows a percentage of the proposed market rate units to be affordable either all or part on site or for the developer to pay a fee to build all or part of the affordable units in another location. In this instance while it is clear that affordable units will be required as part of the concept, it is not clear exactly what percentage will be located on the site. However, if part or all of the residential units are provided on site, there is no commitment that some will be provided in the

upper floors of the 8-story buildings contemplated under the RBSP where the Bay views will be attractive for market rate units to ensure a greater level of revenue and marketability for the developer. The RBSP indicated that retail units would be on the first floor with residential units above. However, with a large reduced amount of retail space coupled with an increase in the residential units in the RBSP (a reduction of 140,000 sq ft of retail and an increase of 2,480 residential units in today's concept) seems to indicate that some of the residential units could well be provided on the first floor. When all is said and done, will the first-floor units be affordable where the exposure to the chemicals will be most pronounced while the market rate units at higher prices for ownership or rental will be reserved for market rate units?

Also, clarification of the concept is needed regarding the amount and location of parking that will be provided for public use and access to the shoreline and Bay Trail. There are sensitive marsh and other habitat areas that must be preserved.

All in all, it appears construction workers, particularly those involved in moving the site's contaminated soil, along with members of the public and residents subjected to repetitive long exposure, and, business owners and employees at the site will be most at risk in the short and long term. An updated, human health risk assessment which includes more restrictive chemical screening standards needs to be done prior to consideration of concepts or plans as in any event human health considerations much precede development decisions.

In the years intervening between the RBSP and today scientists have issued sea level rise above the 3-foot standard mentioned in the staff reports before you. Their message is clear, buildings constructed too close to the shoreline will suffer from a rise in groundwater that will impact foundations and in this case the proposed cap. In tidal action, pollutants will be pushed further inland in one part of that action but also will be pushed out as the water flows in and out. On November 10, chemist Stephen Linsley wrote to the City Council the following comment that wasn't read into the meeting record for that date:

"I'm Stephen Linsley. I was employed by the City of Richmond as the laboratory supervisor for 23 years.

I want the old Zeneca site to be used for the benefit of Richmond, developed but completely cleaned up from toxic chemicals first. Otherwise it won't be safe for construction and utility workers to build anything on that site or for future families or employees to go in either.

The current developer plans to build without cleaning up all the hazardous waste there to safe levels. Instead, it proposes to leave most of the hazards there, just covered with a cap. But when sea water from the Bay enters the soil on this site by liquefaction in a future earthquake or sea level rise, the toxic arsenic, mercury, and lead in the cinders there will be liberated as the salts and oxygen in that Bay Water turn the cinders into sulfuric acid. The pesticides that were created on this site will also get released by the Bay water intrusion, adding another source of poison to this underground soup. Instead, clean it all up now. Don't leave it as a ticking time bomb."

On August 28, 2018, then City Manager William A, Lindsay wrote to Lynn Nakashima, DTSC Project Manager stating his appreciation for their efforts
"to ensure that the Zeneca/Former Stauffer Chemical Site, also known as Campus Bay (the Zeneca Site or Site), will be cleaned up in a manner protective of human health and

the environment and allowing for the uses specified for the Site in the Richmond Bay Specific Plan (RBSP), including ground-level, multifamily residences.”

”The Draft FS/RAP evaluates nine separate remedial alternatives for the Zeneca Site. Alternative 3, which is Zeneca’s preferred alternative, would not remove the vast bulk of contaminated wastes (spent pyrite cinders) and soils currently buried at the Site. As a result, this alternative would place significant, permanent restrictions on the use of the Site, and would require indefinite monitoring to ensure the contaminated wastes/soils do not pose a risk to human health and the environment.”

“Alternative 6, on the other hand, would result in excavation and offsite disposal of the contaminated wastes/soils at a properly licensed disposal facility. The Draft FS/RAP states that, with respect to all nine remedial alternatives analyzed, “Alternative 6 is ranked highest for long-term effectiveness and permanence at the Site” (Page 196)”

While City Manager Lindsay points out that Alternative 6, which is also strongly supported by the CAG, has the highest cost, he adds that the “DTSC should also take into account the fact that the contamination is only present because Zeneca and its corporate predecessors operated (and profited from) the operations at the Site for a full century” He further cites that “Zeneca concedes in the Draft FS/RAP that, in the long term, Alternative 6 will provide the highest level of remedial effectiveness and permanence at the Site.”

This was the City of Richmond’s unanimous position regarding the RBSP until all of a sudden on September 24, 2019 a majority of the Richmond City Council reversed its direction and DTSC approved Alternative 3 to the shock and surprise of the community.

On December 3, 2019, Gabriele Windgasse, MS, DrPH sent an email to Lynn Nakashima at DTSC. In that e-mail she stated that the California Department of Public Health (CDPH) wrote a Public Health Assessment (PHA) for this site in 2009 stating that the CDPH and ATSDR (federal Agency for Toxic Substances and Disease Registry) recommended that the Zeneca site be cleaned up to levels consistent with residential standards if the land use changes from industrial to residential or recreational” (page 47 of the 2009 PHA). With the approval in October 2019 of DTSC choosing Alternative 3 over 6, Dr. Windgasse stated that

“Alternative 3a will leave substantial contamination in place, but requires institutional controls such as land use restrictions, focused cleanup activities, capping, long-term monitoring, and mitigation measures, while allowing residential and other uses on the site (including multi-family housing and commercial uses).

In selecting remediation Alternative 3a, DTSC has to ensure that the measures are protective of public health in the long term. Pertaining to the concern of vapor intrusion from volatile organic compounds (VOCs).” (emphasis added).

She asks that DTSC consider in addressing this matter the following:

“As the conditions of the site change (excavation, new fill material brought in, construction of utility lines that could become preferential pathways, changes in groundwater elevation, etc.), the soil gas cleanup goals should be re-calculated to ensure that they are health-protective. The most recent guidance on attenuation factors and toxicity values of the chemicals of concern should be used.

The proposed 5-year review time-frame may not be sufficient to ensure that the site conditions are protective of public health, CDPH recommends DTSC to review site conditions at least annually to ensure that the land use restrictions are followed, the mitigation measures are working (cap, vapor barriers, passive or active venting, etc.) and

adjusting the mitigation measures as necessary (for example: convert from passive to active venting. In addition, CDPH recommends monitoring of indoor air before occupation and at regular intervals to confirm that mitigation measures are protective of public health, and making these data sets available in a timely manner to the public (EnviroStor).”

In reviewing the staff recommendations for approval, it seems highly questionable to take such an action before the issues raised by the CDPH are completely worked out. For example, what would happen if in an annual review, or at the point of occupancy of a residential unit, it became apparent that a mitigation measure was not working? Who would bear this responsibility to clear up the situation, the City, the developer or DTSC?

The proposed concept is described by staff as being “consistent with the General Plan vision” and it will “provide a vibrant, mixed-use, transient oriented development.” And further, the concept would include a “planting and landscaping plan that is consistent with the San Francisco Bay Conservation and Development Commissions’ Landscape Guide for the San Francisco Bay” and “expand the City’s multi-modal circulation system for locating high-density development in an area near transit.” To our knowledge this concept is not near existing transit facilities. The nearest existing transit is the ferry to San Francisco which is some distance away from the proposed residential units and a bus that is used to transport people from the UC Field Station to the UC Berkeley Campus in Berkeley. While we are still trying to review all the necessary documents, we have found nothing that supports the statement that this proposed housing in “near transit.” This must be addressed as to the additional amounts of greenhouse gas emissions directly attributed to the proposed 4,000 housing units.

Finally, we repeat what we have said to the Council on November 10, 2020: It is unclear whether this project will be structured so that if it goes financially bad, the developer can declare bankruptcy and just walk away without involving the parent company. Not only is this an important issue, it becomes even more so in these uncertain times when there are deep concerns about the future of the state and national economies, let alone the City of Richmond’s already compromised financial condition. You should also remember that newly-election Council Members will be taking their places on the Council in a few short weeks.

After all is said and considered, CESP urges that you inform the City Council that you take no action at this time and urge them to do the same.

Thank you,



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