

The Honorable Mayor Gayle McLaughlin  
Members of the Richmond City Council  
City of Richmond  
450 Civic Center Plaza  
Richmond, CA 94804

December 14, 2009

Re: Comments of the Council of Industries on the draft General Plan

Dear Mayor McLaughlin and Members of the Richmond City Council:

The Council of Industries (“COI”) wishes to commend the City of Richmond and the Planning Commission in their efforts to support a brighter future for Richmond, its residents, and the business community. The COI believes this vision can be achieved with a partnership between the City, neighborhoods and the business community, and with the City’s recognition of businesses’ valuable role in the community. In the spirit of partnership, the COI is pleased to have the opportunity to submit the following comments on the draft Richmond General Plan (“the Plan”). Whereas the following represent key issues and areas of concerns, a full summary of all recommended changes is attached and is being submitted for review (Itemized Review of Each Element).

The Elements: #5 Housing Element, #8 Energy and Climate Change, #11 Community Health and Illness, #13 Arts & Culture, #14 Historic Resources were not given to the General Plan Advisory Committee (GPAC) - the City’s oversight committee, to review, comment or change –and should be sent back to them. All Elements of the Plan require community input – including the GPAC and Planning Commission review. According to the Plan, (pg. 18), “the ‘GPAC’ met 22 times over three years to incorporate community and City staff input into the development of an overarching community vision, a range of land use alternatives and recommendations for the preferred land use alternatives, as well as goals, policies and Implementing actions for each of the General Plan elements.” This is inaccurate as these noted Elements of the Plan were not created by or received oversight review by the GPAC. Ideally, these should be referred back to the GPAC for review and comment.

#5 The Housing Element is not included in the Plan This is a required element, however, it has not been finalized, or reviewed by the community, the GPAC, posted for review, or reviewed by the Planning Commission. It is understood that the Housing Element is going to be put on a separate time frame of review. We are asking that the same amount of time that was given for the public to review the draft General Plan, be given to the public to review the Housing Element.

The Plan should include only the Goals. In the last revision, the staff removed the time table/responsible party matrix; however the Action Items remain in the draft Plan. By including Action Items, it negates the City Council’s authority to assign Action Items to complete the goals, assign responsible parties, time frames, prioritization and budget (if applicable). The Action Items should be removed from the Plan. If the Action Items remain in the Plan then it could be understood that approval and passage of the Plan would include approval and passage of the listed recommended ordinance which is improper as these require a full public review process. Should the City Council elect to proceed with these actions, the COI has

submitted a separate review and commentary on these Action Items, but specific concerns include:

Action Items listed include programs that are already in place This is redundant and unnecessary to put into the Plan. Many of the action items listed are noted as *ongoing*, however, It is unclear what “*ongoing*” signifies.

Actions that require implementation of ordinances need to be removed from the Plan. Ordinances are under the purview of the City Council. By including ordinances in the Plan it is inferred that approval of the Plan also provides approval of all Action Items including the approval of ordinances. This circumvents the City and public review and comment process. [These include, but are not limited to: ED8.D Industrial Property Visual Appearance Ordinance, CN3.A Integrated Pest Management Ordinance (not given an Item # but included in this Action Item), CF3.A/CN5.C/EC4.1/EC4.G/HW10.B Green Building Ordinance, CN5.F/EC3.E Construction and Demolition Ordinance, PR1.H Parkland Dedication Ordinance (similar to HW1.B Parkland Dedication and Fees and Parkland Loss Prevention, but it is not listed as an ordinance), PR4.C Bay Trail and Shoreline Access Ordinance, HW5.A Inclusionary Housing Ordinance, HW8.C/SN2.D Liquor Store Ordinance, HW9.R/SN4.C Noise Ordinance, HW-9.T Second-Hand Smoke Ordinance, HR1.A Historic Preservation Ordinance, CR5.E Diesel Idling – not listed as an ordinance but meets the guidelines, CN3.A NPDES Compliance and Permit – Sanitary Connection Ordinance for pool, spa and fountain discharge, CN3.E Groundwater Protection Ordinance – also listed as CN3.E Groundwater Conservation Ordinance, PR1.H Parkland/Subdivision Ordinance, PR4.C Bay Trail and Shoreline Access Ordinance, HW5.G Rental Inspection Ordinance, etc.]

Remove all Action Items that meet an ordinance standard, but are not listed as such. An ordinance is an ordinance. Some Action Items that appeared in the first draft Plan were listed as ordinances and in the second draft are identical but the word “ordinance” has been deleted, e.g. HW9.10 Second-Hand Smoke., CR5.E Diesel Idling, etc. Some Action items are listed in several places – same item, titled somewhat different, but one is listed as an ordinance and one is not, e.g. PR1.H Parkland Dedication Ordinance and HW1.B Parkland Dedication and Fees and Parkland Loss Prevention, etc.

Actions include ordinances that are currently in place and should be removed. Action EC6.E NPDES Compliance and Permit Ordinance, Action ED2.G Business Opportunity Ordinance, Action ED2.H Local First Hire Ordinance, Action ED2.1 Living Wage Ordinance, etc. – are current, active ordinances and should not be listed as Actions.

Action Items are duplicated throughout the Plan, but are given different numbers. Action Items that may be relevant to several Elements appear in each Element, but receive a different number, e.g. CF3.A/CN5.C/EC4.1/EC4.G/HW10.B Green Building Ordinance. This will be difficult to track and monitor. Assign one number for each Action Item.

Action Items requiring and requesting funding for projects should be removed from the Plan. All funding responsibilities are under the purview of the City Council. Action Items ED1.K /PR5.B/AC2.C Festivals and Events Funding, and, ED1.L/AC1.D

Local Arts Funding Strategy, CN2.7/HW1.B/PR1.H Parkland Dedication and Fees and Parkland Loss Prevention Ordinance, etc., all require funding by the City. Funding requests fall under the City Council's authority.

Action Items that recommend updates of current fees or recommend new fees need to be removed. These fall under the purview of the City Council and require public review and comment. Some of these include: CR3.C/HW4.M Road Fees Program and Construction Traffic Fees Program, CN2.7 Parkland Dedication and Fees, CN2.C Parkland Dedication and Fees and Parkland Loss Prevention,

Recommended actions which duplicate responsibilities of Regulatory Agencies should be removed. The Plan includes references throughout for the City to take on added responsibilities for which regulatory agencies already have responsibility and staffing. The City should avoid adding new regulatory policies in areas where in place regulatory agencies (e.g. RWQCB, BAAQMD, etc.) regulate water and air quality in a comprehensive manner. In addition, should the City start requesting confidential information from the private sector, there could be a conflict with maintaining true confidentiality given the City's responsibility for public access of information. The following list contains Action Items that should not be included as they place the City into a regulatory mode that is a duplication of current agencies' responsibilities.

These Action Items include, but may not be limited to:

Action ED1.G Site Remediation Strategy, Action ED1.H Air Quality Monitoring and Reporting Program, CR5.E Diesel Engine Idling Ordinance, CF1.E Storm Water Drainage Master Plan, CF1.F Waste Management Master Plan, CN2.I Mineral Extraction Regulations, CN3.A NPDES Compliance and Permit, CN3.B Wastewater Management Plan, CN3.D Monitoring and Enforcement (Water Quality), CN3.E Ground Water Protection Ordinance, CN3.F Green Marinas Program, CN4.B Air Position Reduction Strategy, CN4.D Air Quality Monitoring and Reporting Program, CN6.B Hazardous Substance Management Standards, CN6.C Position Prevention Program, EC2.J Port Emissions Reduction Plan, EC6.D Shoreline Protection, HW9.C Diesel Engine Retrofit, HW9.E Indoor Air Quality Guidelines, SN4.B Noise Study Guidelines, SN1.G Water Quality Regulation, CN3.D Monitoring and Enforcement (Water Quality), SN1.I Hazardous Material Regulation. *Refer to the Letter from Paul M. Minault submitted to the Planning Commission and Richard Mitchell, on behalf of Levin Richmond Terminals, pg.11-12, J. for a summary of recommendations and supporting reasons.*

Air Quality and Water Quality Regulations The Plan goes beyond the traditional realm of a land use Plan and into those of regulatory oversight of environmental areas. These are currently subject to comprehensive State regulatory authority. Goal CN3 Improve Water Quality, Goal CN4 Improve Air Quality – includes policies redundant to the Regional Water Quality Control Board (RWQCB) and Bay Area Air Quality Management District (BAAQMD). Additional duplicative layers of oversight increase the cost of doing business, require the need for additional staff when the City is currently faced with budget cutbacks and staff reductions.

Action CN1D Creek Corridor Performance Standards, Action CN3.D Monitoring and Enforcement, and Action CN3.E Groundwater Protection Ordinance, establishes

programs for the City to monitor, regulate, enforce regulatory standards and respond to violations – under the regulatory authority of the RWQCB

Action CN4.B Air Pollution Reduction Strategy, CN4.D Air Quality Monitoring and reporting Program, provides that the City do the same with air quality issues – which is under the regulatory authority of the BAAQMD.

In addition, large industrial users might be required to have National Pollutant Discharge Elimination System (NPDES) permits to regulate water quality, and/or separate operational air permits from the BAAQMD.

Action CN3.D Monitoring and Enforcement ; Acton CN3.E Groundwater Protection Ordinance : ADD: *“Existing facilities with a valid National Pollutant Discharge Elimination System permit regulating discharges shall be exempt from this requirement.”*

Action CN4.B Air Pollution Reduction Strategy; Action CN4.D Air Quality Monitoring and Reporting Program: *COI supports the changes suggested in the Chevron letter to the City Planning Commission.*

The Plan and resulting Zoning Ordinance Plans should be created so that there is a minimal need to establish Specific Plans. This Plan recommends eight (8) specific Plans: ED1.J Corridor and Area Specific Plans, ED5.A San Pablo Avenue Specific Plan, ED5.B 23<sup>rd</sup> Street Specific Plan, ED6.A & IU3.G Hilltop Specific Plan, ED7.A Richmond Parkway Specific Plan, ED8.A & IU3.E Southern Shoreline Specific Plan, ED8.B & IU1.J Ferry Terminal Specific Plan, IU1.D & EC4.A Downtown Specific Plan. This pulls these specific plans out from the Plan review process. The Plan should be a land use vision for the entire City and the specific plans should not be removed from the General Plan plan process.

Campus Bay Change Area/ Harbor Front Tract. The current land use designation of the Harbor Front Tract should not be changed. It is currently designated as heavy industry and encircles an area that includes many thriving industrial businesses. However, the Plan includes it as part of the Campus Bay Change area suggesting that this area zoning and land use will be changed to other than current zoning. The Tract should be removed from the Campus Bay Change area and be designated either as industry or as Business/ Light Industry with special provisions to allow all existing businesses in the Tract to continue to operate as fully conforming uses. Given the industrial presence, buffer zones should be required between the Harbor Front Tract and any potentiality incompatible development on the Campus Bay/Zeneca Site. Land Use Covenants are required in order to protect industry from residential development. *Please review Paul Minault’s Letter on behalf of Allied Propane, September 16, 2009 sent to the attention of the Planning Commission and Ms. Lori Reese-Brown for more detail on recommended changes to the Plan.*

The Southern Parkway Change Area Noted in Land Use and Urban Design Element is Change Area 13, the “Southern Parkway Area.” The Plan proposes to change the current land use designation from “Industrial” to Business/Light Industrial” designation. A large portion of this area includes the Chevron Richmond Refinery which has supported industrial uses for decades and does not lend itself to a quick transition to less-intensive uses under the “Business/Light Industrial” designation

such as offices. In addition, Chevron is considering exploring potential alternative energy facilities on this property which would not be included in this changed land use designation. THEREFORE, THE PLAN SHOULD CONTINUE TO DESIGNATE THE CHEVRON LANDS WITHIN THE SOUTHERN PARKWAY AREA AS "INDUSTRIAL," OR, REMOVE CHEVRON'S PROPERTY FROM THIS CHANGE AREA ALTOGETHER.

San Pablo Peninsula Change Area. The Land Use and Urban design Element also designates a "San Pablo Peninsula Change Area," which includes some Chevron Richmond Refinery property, including several oil tank fields. THE DESCRIPTION OF THE SAN PABLO PENINSULA CHANGE SHOULD INCLUDE THE INTERACTION BETWEEN THE PLANNED AREA DISTRICT AND THE REFINERY'S EXISTING OPERATIONS. *Please refer to the letter submitted by the Chevron Richmond Refinery to Richard Mitchell and the Planning Commission "The City of Richmond General Plan 2009," for further information and language change support.*

Homeland Security and Security Buffer Zones. Throughout the Plan and in some of the Specific Plans and Change Areas (e.g. Southern Shoreline, Southern Parkway, San Pablo Peninsula, Campus Bay, North Richmond, Winehaven area etc.) where we have industry the Plan needs to validate the industrial requirements to establish a security buffer zone. *The following language should be added into these plans and change areas: "Consideration must be given to state and federal security requirements which require, among other things, the establishment and maintenance of a security buffer zone around the Chevron Richmond Refinery, Chevron Long Wharf and port industries under the auspices of these agencies."*

Subsidiary Plans for the southern part of the City need further clarification. The Plan notes several specific Plans for this area: Southern Shoreline, Campus Bay, Ferry Terminal, but it neglects to point out the Knox Freeway/Cutting Boulevard Specific Plan's legal relationship to this specific Plan. *Refer to the Letter from Paul M. Minault, on behalf of Levin Richmond Terminals, pg. 10-11, for summary and full recommendations, sent to Richard Mitchell and the Planning Commission.*

The Southern Shoreline Specific Plan will require further clarification. This is currently home to industrial usages and is zoned as such. However, this area has now been designated as the Southern Shoreline area and was pulled from the Plan to consider a "Specific Plan" without discussion with current landowners and businesses. COI supports the City considering a Plan to locate green businesses to this area, and, that currently occupied and developed industrial and light industrial/commercial business property remain as such. COI welcomes working with the City on development of the Plan.

#### The Ferry Terminal Specific Plan Considerations

In Element 4. Circulation, the potential Ferry Terminal is reviewed and it is noted that (4.13) "The San Francisco Bay Area Water Emergency Transportation Authority (WETA) included Richmond as a potential terminal location site In Its 2005 Terminal Site Analysis. WETA presented the Richmond Waterfront Transit Oriented Development (TOD) Plan to present a preferred alternatives and a Development Concept Plan for the potential terminal.<sup>8</sup>"

The Plan states that the *proposed* Ferry Terminal Specific Plan is *ongoing* however no Specific Plan has been reviewed with the public or presented to the Planning Commission or City Council. Several meetings have been conducted with community leaders and Marina Bay neighborhood groups, but no formalized Specific Plan has been brought back for review. This erroneously suggests that a Specific Plan is in place. It is imperative that this Specific Plan go through the formal public review process as it will impact the business and neighborhood community – e.g. traffic, parking concerns, rail crossings issues, etc.

Secondly, the zoning changes in the area are being recommended under the assumption that the Ferry will be built. *Refer to the Letter from Paul M. Minault, on behalf of Levin Richmond Terminals, pg. 7, F. for a summary, submitted to Richard Mitchell and the Planning Commission.* This is dangerous, for it leaves the area incorrectly planned if the Ferry Terminal is not, after all, built.

Richmond Waterfront Transit Oriented Development (TOD) Plan, Water Transit Authority (January, 2008) This report is referred to in the Plan and is used to support development of residential housing in the Ford Peninsula area and the Industrial Buffer Zone. The COI opposes any residential construction in the Industrial Buffer Zone. The COI and business representatives participated in several stakeholders meetings in 2008. The WTA noted that the area had sufficient housing within the one-half mile subscribed radius to support the proposed Terminal. A review of the report indicates a fifteen (15) year phase-in period which includes: 0-5 years residential developments by Toll Bros. (*which is no longer viable*), and Marin City Retirement Association (Marin County) (pg. ES-11) “would redevelop their property at the intersection of Marina Way South and Regatta Boulevard. *“It is unknown if this is going to happen.*” The primary infrastructure improvements included in Phase 1 include “the realignment of Regatta Way and Marina Way South to eliminate the two existing at-grade railroad crossings.” *Funding sources will need to be identified...* “Phase 2: 5-10 years (ES-12) “Phase 2 Includes residential and commercial development within the Transition Buffer Zone east of Marina Way South on property owned by STG Asset Management and on property owned by Virtual Development.” *The City of Richmond passed an Ordinance (09/02/08) that does not allow residential uses within the Industrial Buffer Zone.*

*Secondly, this assumes that STG Asset Management and MW Properties are interested in this proposition. Ms. Patricia E. Curtin, attorney for Mr. Richard Poe of Virtual Development has stated In a letter (September 30, 2009) to the City, (pg 3) “The draft General Plan identifies the MW Properties as “High Intensity Mixed Use.” We object to this designation because it would make the existing uses on the properties ‘non-conforming’ and make it harder to obtain financing to improve the properties and retain the major employers who currently occupy our client’s buildings resulting in substantial job losses to Richmond and the potential for increased blight.”*

*(Ms. Curtin’s letter provides more details regarding the issues surrounding Mr. Poe’s property and development; this letter was submitted to Mr. Richard Mitchell and the Planning Commission, please refer to it.)*

Phase 3: 10-15 years: “Phase 3 includes residential development on the site of the historic Ford Assembly Plant parking area owned by Orton Development, residential development on waterfront properties owned by Virtual Development subject to the

conditions described above, and development of office and light industrial on properties owned by STG Asset Management.” *Mr. Poe’s property again is noted as being rezoned for residential, resulting in his existing & future uses becoming “nonconforming.”*

In the Circulation Element (4.13), it is noted: “The Richmond City Council has gone on record supporting the potential new ferry Terminal to be located in the Marina Bay area of Richmond.” This statement is misleading and does not include the entirety of what the City Council agreed to. It should be restated as follows: *In a Study Session on July 31, 2007 – the City Council was presented with a power point presentation overview of the proposed Ferry Terminal and agreed (8 yes/1 abstention) to acknowledge the preferred ferry site, but to make no decision on the General Plan issues raised. These would become part of the GPAC and Plan process of review and consideration. It is also noted that the City Council did not review the Final Richmond Waterfront Transit Oriented Development Plan as this was not completed until January 2008 and was never brought to the Planning Commission, or City Council for review.* THESE TYPES OF OMISSIONS FROM THIS DRAFT PLAN PROVIDE BIASED INFORMATION.

The TOD further proposes zoning changes under the assumption that the ferry Terminal will be built. According to the TOD: (ES-8) “The residential development that is proposed for the blocks west of Marina Way South and North of Hall Avenue would be located within an area that is commonly referred to as the ‘Industrial Transition Buffer Zone.’ Development within this area is predicated upon establishment of specific protections, such as a zoning overlay, a deed restriction, or other strategy, to be agreed upon by the City of Richmond, the owners of the subject properties and the West Contra Costa Council of Industries.” This “Industrial Buffer Zone” has been established as an ordinance with the City of Richmond through an agreement derived with the industrial users which does NOT allow for any residential in this buffer area. Therefore, this proposal in the WTA or WETA Plan is *not viable*.

Noted on pg ES-10 of the WTA TOD is the funding requirements under Resolution 3434 and Regional Measure 2. Of note is that there is a “minimum farebox recovery ratio of 40 percent and a minimum threshold for residential density. This residential density threshold was initially set at 750 dwelling units within the ½-mile radius of the Terminal, but the MTC recommended in 2007 that the threshold be revised upward to 2,500 units.” In Figure ES-1, at Terminal Site 5 – the proposed Ferry Terminal, site, the total number of existing housing including live-aboards is 803, with “approved” new Housing (the Toll Bros. Westshore development that did not happen) of an additional proposed 671 units, the total housing was adjusted to 1,389 – less than the 2,500 units, which, according to the TOD *does not* support a Terminal.

The TOD also states, “Major infrastructure improvements within the neighborhood will likely be paid for through a special tax or assessment district.” Thus, the WTA is proposing special taxes or assessments to support the funding, which require residential voter approval. This is another substantial hurdle for the Ferry Terminal, and a reason why the Specific Plan should not assume that the Ferry Terminal will, in fact, be built.

Conflicting Ferry Terminals? In the 09/08/09 West County Times an article describes the transit center being designed for the City of Hercules that includes a Ferry Terminal for service from Hercules to San Francisco. It is highly unlikely that the WTA is looking at establishing two ferry locations so close in vicinity to each other. Therefore, before this "Plan" should go any further and land use planning be directed around it, it should be determined whether or not this is a viable project with the WTA.

Rezoning Giant Road Area. In North Richmond on Giant Road there is a profusion of heavy industrial businesses, one of which is North Richmond Properties, Inc. owned and operated by Mr. Albert Engel. These businesses provide employment opportunities for local residents, and economic support for the City. In Mr. Engel's letter to Richard Mitchell, Planning Director, dated July 28, 2009 (attached), he expressed:

"great concern (with) the proposed changes in the General Plan regarding our property on Giant Road from its present designation of 'heavy industrial' to 'business mix'. This would have great economic consequences not only to us, but also to our tenants which currently have in excess of 110 employees among the various businesses if they or their successors are not allowed to continue business due to a change in zoning."

As with proposed changes to Mr. Poe's development, this recommendation would make any changes to the property 'non-conforming', make improvements harder to finance and impact the longevity of Mr. Engel's tenant businesses if they could not expand or improve their business. The Plan should respect the current zoning in this area.

The Economic Development Element should incorporate the findings and conclusions of the Milliken Institute Report on California Manufacturing Job Losses. As noted in Mr. Paul Minault's Letter for Levin Richmond Terminal, pg. 7, "The report found that California is continuing to lose manufacturing jobs to other states and nations, and that state and local governments are not doing enough to stem the erosion. The reports call for governments to reduce regulatory and tax burdens, enhance public incentives for manufacturers to locate in California, support research and development activities and support education and training programs for the next generation of manufacturing workers." COI agrees with Mr. Minault's recommendation that the findings and conclusions of the report should be incorporated into the Economic Development Element. *Refer to Letter from Paul M. Minault, on behalf of Levin Richmond Terminals, pg. 7, E. for a summary of supporting reasons, submitted to Richard Mitchell and the Planning Commission.*

Circulation and traffic issues require further Planning in the Ford Peninsula Area. *Mr. Minault describes the key problem areas in his attached Letter on pg. 7. & 8. G Issues with Wright Ave., and Harbour Way South.* Specifically, Wright Avenue is a major street and thoroughfare for the industrial community. If it is considered for additional traffic support then further study should be done on the viability of this proposal. Secondly, Harbour Way South should not be considered a transit priority street designation as it is a major trucking route for the port and area businesses. Third, lane widths on Harbour Way South need to be reconsidered. As stated in the letter, they do not take into account safe truck traffic along with parking lanes and should be expanded by 12'. This needs to be re-envisioned to support proper and safe passage by trucks. Fourth, Harbour Way South/BNSF Grade Separation is

financially prohibitive and should not be included as an action item. *Please refer to Paul Minault's letter dated 09/24/09 on behalf of Plant Reclamation, which describes in greater detail these concerns, submitted to Richard Mitchell and the Planning Commission.*

References to “the Port” throughout the Plan should include not only the Public Port, but also the Private Port businesses as economic drivers supporting the City of Richmond. The Plan incorrectly states that specific industries need to be encouraged to utilize their resources to modernize their facilities. Levin Richmond Terminal, CEMEX, Chevron, Praxair and Eagle Rock Aggregates have invested a great deal of money in improving their operations and continue to do so. There are also references to disposal of hazardous substances at the Port; COI supports the language that Mr. Minault recommends in his letter on pg. 9: that “Industrial operations, the Port and” be deleted from the sentence so that it refers simply to “contamination from activities that use, produce or dispose of hazardous or toxic substances.” *Refer to Letter from Paul M. Minault, on behalf of Levin Richmond Terminals, pg. 8-10, H. 1 -7 for a summary, submitted to Richard Mitchell and the Planning Commission.*

The Seaport Plan constructed by the SF Bay Conservation and Development Commission and the Metropolitan Transportation Commission should be included as an addendum to the Plan. Following an analysis of port needs for the Bay Area, the Plan was established in 1996 and was recently updated (August, 2009). It continues to emphasize the Richmond public port as a key bulk cargo port needed to support cargo movement in San Francisco Bay area now and into the future. In the revised Plan, it is noted as a reference. It should be available online at the City Website.

Action ED8.C Port Strategic Business Plan should include the recommendations of the BCDC Seaport Plan – It is unclear if this strategic plan includes both the public and private held port area and businesses. Further clarification is requested.

Port air pollution figures require documentation. Community Health and Illness Element at 11.20 – please provide the data source for the information noted.

Building height restrictions in the port should not be lowered. In the first draft, height restrictions at the port were recommended, and in the current draft they have been raised. We feel that the current recommendation in the draft plan (of 100', 100'+/requiring review) meets the requirements of the port's needs. The previous restriction would have an adverse impact on competition with other ports that either have a higher height limit or no limit. As noted in Mr. Paul Minault's letter for Levin Richmond Terminal, pg. 1, “The Port of Richmond needs to be able to maintain its competitive position as the primary deep-water port for bulk cargoes in San Francisco Bay, and the primary interconnection point for goods movement in the North Bay.” *Refer to Letter from Paul M. Minault, on behalf of Levin Richmond Terminals, pg. 1, A. for a summary of supporting reasons, submitted to Richard Mitchell and the Planning Commission.*

The Bay Planning Coalition should be included as a regulatory agency that oversees land use issues along bay front / port use areas.

The Plan is inconsistent with the Harbour Way-Marina Way South Industrial Buffer Zone Ordinance (09/02/08) by designating the land immediately east of Harbour Way South as Business / Light Industrial and the land immediately West of Marina Way South as Medium Intensity Mixed Use (Commercial Emphasis) and High Intensity Mixed Used (Major Activity Center.) Land Use Element at 3.45. The COI supports the language change proposed in the letter submitted by Paul M. Minault on behalf of Levin Richmond Terminals (August 6, 2009) (copy attached, pgs 3, 4). *Refer to Letter from Paul M. Minault, on behalf of Levin Richmond Terminals, pg. 2, B. for a summary of supporting reasons, submitted to Richard Mitchell and the Planning Commission.*

The Plan ignores development agreements by suggesting rezoning areas in the Marina Bay area. Specifically, current zoning of Virtual Development's property is business/light industrial, which is in alignment with their two light industrial tenants holding either a lease or Letter of Intent. One is a "green" business, complementing the City's green business corridor commitment. The Plan suggests rezoning from general commercial / office flex to high density residential. This is not in alignment with current zoning nor the landowner's rights to continue to develop his property as currently zoned. *Refer to Richard Poe's Letter (09/23/09) Letter to the Planning Commission, and City Planner for more in-depth review of this concern.*

Land Use Covenants are needed to protect the port from high-rise residential. The Plan envisions high-intensity residential within the Ford Peninsula and port business operations areas. *Refer to Letter from Paul M. Minault, on behalf of Levin Richmond Terminals, pg. 4, C. for a summary of supporting reasons, and recommended language changes- adding Private Realm, Action. Land Use Covenants, submitted to Richard Mitchell and the Planning Commission.*

Residential Planning Must Be EXCLUDED from Buffer Zones Of note is the Ford Peninsula, established by ordinance, Industrial Buffer Zone, current zoning in the Southern area ("Campus Bay") supports a buffer between industrial and residential with a light industrial/business mix zoned area, San Pablo Peninsula is recommending residential use which is adjacent to a working Refinery. These run counter to current Land Use Policy LU-0.7 and proposed Action LU5.C as it eliminates any meaningful "transition area" and security consideration between residential and heavy industrial uses.

The Plan should prohibit residential development near rail crossings. There are a myriad of safety reasons for locating residential safe distances from rail crossings and train traffic. *Refer to Letter from Paul M. Minault, on behalf of Levin Richmond Terminals, pg. 5, D. for a summary of supporting reasons, and recommended language changes – adding Action SN4.B Noise Study Guidelines, Action SN4.C Noise Ordinance as well as other recommended language, submitted to Richard Mitchell and the Planning Commission.*

Urban Design Guidelines should be changed to reflect an equitable distribution of responsibilities. The Guidelines for the Port calls for an adoption of an ordinance to impose maintenance and other standards on industry. All ordinances should be pulled from the Plan as they are under the prerogative of the City Council to

recommend. Secondly, urban design should be applied to all structures throughout the City to ensure a homogenous approach and consideration.

Green Building Codes There are statement throughout the Plan that infrastructure and buildings, etc. must comply with “green building codes.” This is a misnomer. There are State and local building codes, but the City’s Green Building Ordinance, approved by the State Energy Commission, has not made its way to the City Council for review and adoption. The language should reflect the current regulations. Secondly, buildings and infrastructures should comply with *all* building codes.

Action IU3.A, EC5.A Green Business Strategic Plan The COI supports collaboration with the City and Chamber of Commerce “to develop a strategic Plan to attract new green technology firms to Richmond.” In addition to green technology, the COI is committed to collaborate with the City and Chamber to develop a diverse economic strategic Plan to recruit other types of businesses including manufacturing, food-based, technology, biotech, etc.

The City needs to develop a signage program administered by one department. Signage is noted in various actions: PR1.F Citywide Signage Guidelines and PR1.G Interpretive Trails Guidelines under the responsibility of the Planning and Building Services Department, CR2.E Signage and Wayfinding Plan under Public Works, NP1.F Interpretive Signage and Wayfinding Plan under Recreation, and for the National Historical Park, Hilltop Specific Plan and Gateway Signage. A clear signage program is necessary to develop guidance for applicability and appropriateness, but should be consolidated under one department and provide a mechanism for public review and comments. Much work has been done to date by the Economic Development Commission, Richmond Convention and Visitor’s Bureau, and the Richmond Chamber of Commerce.

Site Remediation Strategy needs further consideration. Action ED1.G & IU4.D& CN6.A, HW9.J Site Remediation Strategy. Remediation Plans are developed under the guidance of the appropriate regulatory agency, one strategy would not be applicable to all situations, e.g. in some cases BAAQMD would be the lead agency, in others it could be DTSC or BCDC each could require a different remediation and oversight program. COI would like to discuss this further with the City to determine the intent of the Action Item.

Circulation Element: The City used the data from the **2000 Report** of The US Census Bureau as a basis for determining commuting patterns into and out of the City of Richmond. The City needs to use current data. So much has changed in the last 8 years including rising unemployment and home foreclosures, which would impact jobs and commute decisions. Current data can impact goals set out in this and other Elements.

Energy and Climate Change Element Many of the recommendations made in this element are derived from the Green House Gas Inventory completed in 2008 by the International Council for Local Environmental Initiatives (ICIEI). We want to thank staff for updating the plan to include our recommendation to provide a review of the data from this report.

Climate Action Plan (CN5.E) The City has agreed to have the COI participate in the construction of the Climate Action Plan.

The Greenhouse Gas Emissions Inventory and Analysis Report – many of the recommendations made in the Energy and Climate Change element refer to this inventory and report. COI would like to get a copy of the report.

Remove Assessment Districts from Action Items. For Example, Action LU6.B creates a Parking Assessment District, but, assessment districts require City Council and community involvement including a ballot vote.

The City “shall”, “must.” “will,”—“establish”, “Implement,” “create,” etc. Unless required for regulatory reasons, all recommendations in the Plan should be that – RECOMMENDATIONS. Whether or not a Plan/program/action is viable will be dependent upon staff time, ability, knowledge, budget, and ultimately the City Council decision.

Definitions. It is a great addition to provide descriptors of recommendations. Recommend that reference be made as to where these definitions are from, e.g. Table 3.3 Place-Based Street Typology Summary a simple footnote stating where the definitions hail from. Recommend a glossary (alpha order) of all included definitions at the end of the Plan so that they are easily accessed in one place, e.g. bioswales, green buildings, etc.

Listing of Specific Nonprofits. With the depth and breadth of the non-profits in the Richmond and West County area it is very difficult to list all viable organizations in the Plan. Listing specific nonprofits locks the City into relationships with specific organizations. It also ignores the process established that the City Council must approve funding and contract with organizations. Therefore I suggest that generic statements be made regarding collaboration with nonprofit organizations and that no specific nonprofits are noted in the Plan.

Listing of Specific Events. Specific events should not be supported in the Plan as these fall under the purview and approval of the City Council and are dependent upon funding availability.

Maps All maps should be included at the end of the Plan for easy review and access, or, as an alternative, a glossary be added noting where each map can be found in the Plan as a cross reference. Please add maps to clearly indicate current zoning and proposed zoning changes.

Figures All figures included in the Plan need to be available to the public so that proper review can take place. *The following are not included in the plan at the City website:* Under Change Area 12: South of Parchester (3.87): Figure 3.46 South of Parchester Area, (3.88), Figure 3.47 South of Parchester Area Development Strategy, (3.89) Figure 3.48 South of Parchester Area Proposed Section, (3.91) Figure 3.49 Southern Parkway Area, (3.92) Figure 3.50 Southern Parkway Area Development Strategy, (3.93) Figure 3.51 Southern Parkway Area Proposed Section, (3.94) Figure 3.52 San Pablo Peninsula Area, (3.95) Figure 3.53 San Pablo Peninsula Area Development Strategy, (3.96) Figure 3.54 San Pablo Peninsula Area Proposed Section, (3.97) Figure 3.55 Port Priority Use Area, (3.98) Figure 3.56

Port Priority Use Area Development Strategy – *I cannot comment on these without reviewing the figures. In addition, the supplemental paragraph subscribing where these areas are located, is vague and does not include streets or other defining boundaries.*

Photos. Staff did an excellent job of scanning the last draft and updating the photos so that Richmond areas are highlighted. Photos taken in Richmond should be reviewed from the perspective of the general public reaction, e.g. Circulation Element (4.5) Note the billboard advertisement on top of the building, “Gambling problem? Call...” Do we really want this depicted in a public document?

Fees/Programs for Developers Throughout the Plan there are recommendations/requirements, suggestions, etc. to increase developer fees to pay for various programs or, requiring implementation of additional programs. First, fee considerations and/or increases fall under the purview of the City Council and should be removed from the Plan. Secondly, the abundance of these supports the developers comments that the City of Richmond is not welcoming to development...for example-

Action GM1.C Transportation Demand Management Program Transit to subsidize carshare service, parking cash-out programs, bicycle-share programs, bicycle amenities and facility enhancements. Action EC3.G Water Recycling Program Requiring the installation of localized water recycling systems. Policy GM2.2 Community Amenities for New Development Requiring new development to “pay costs attributable to that development including impacts on: local streets; local and regional transportation systems; and public facilities such as parks and recreation, schools and emergency services.” Action GM2.B Regional Development Mitigation Program “...Regional mitigation measures may include fees, assessments, exactions or other contributions that provide community facilities and infrastructure for planned and proposed development.” Action GM2.C Local Development Mitigation Program “Update the City’s impact fee schedule to raise adequate revenues from development projects for new or upgraded facilities and amenities.” Action PR1.D Parkland Acquisition Plan: Confirm a range of acquisition strategies including easements, donations, land purchases and park set-asides, parkland dedication or in-law fees for new or redevelopment projects.

Adding on fee after fee or more and more costly programs will negatively impact the interest of developers to come to Richmond, and, the quality of development projects within the City. It will also impact the cost of “affordable housing, “which, according to the Plan, the City wants to provide.

#3 Land Use Element – Live/Work: This is defined (3.20) as follows: “The Live/Work land use category allows for lofts, apartments, small-scale production spaces, offices and related storefront retail that provide living space opportunities for small business owners and local artists. Areas designated as Live/Work provide for a transitional use within industrial areas that can create a buffer between industry-related activities and nearby residential and commercial areas. Development may occur adjacent to rail tracks and industrial areas where noise levels are higher than in residential areas. “COI disagrees vehemently with this observation and placement of Live/Work. The definition clearly provides for on-site residency in a loft or apartment -- NO RESIDENTS should be placed within a buffer zone – that defeats

the reason for a buffer. Likewise, they should not be located near rail tracks or industrial areas.

#10 Parks and Recreation Element This is not a state mandated element, however, there are a total of sixty-four (honed down from 70) pages of material outlining what the City needs to do, with a total of thirty-nine (39) action Items. The City needs to hone this down to a reasonable, doable number of goals given the budgetary and staff cutbacks and constraints, and, given the depth of actions listed under the Plan required elements.

#11 Community Health and Illness Element This is not a state mandated element, however, there are a total of eighty-four (honed down from 104) pages of material outlining what the City needs to do with (at last count) a total of eighty-four (84) action Items. Redundant goals/action items should be eliminated and the overall number needs to be reduced to a reasonable, doable number of actions that can be implemented, and prioritized in order of importance.

Action ED7.B Parkway Improvements Recommends: "...Work with major employers in the area to plan for and fund landscaping, signage, lighting, regular maintenance, design guidelines and other elements." Is the City recommending an Assessment District? if so this needs to be voted on by the property owners. Secondly, are parts of the Parkway under the jurisdiction of the County, or State?

Action CN2.I Mineral Extraction Regulations – COI would like to have more information on what this will regulate.

Action AC1.H Strategic Plan for Arts Organizations, under the responsibility of Library Services. Does the City have jurisdiction to establish strategic plans for nonprofit or private organizations? These are normally determined by internal Boards or management.

Action CR3.C Circulation Impact Fee Program COI was not aware that the City had such a fee program in effect. I would like a copy of it.

Action CR4.A Goods Movement Plan COI would like a copy of this Plan and would welcome participating in review and update of the plan.

COI would like to work with the City on any additional plans that might be considered in regards to goods movement.

The COI recognizes that there will be further opportunity to comment on the Plan during the Planning Commission's formal public hearings on the Plan and the environmental impact report for the Plan update prior to the time the Commission is ready to proceed with a formal recommendation to the City Council under Government code § 65353.

The COI recommends that the Planning Commission's revised Plan be recirculated for public review and another public hearing be set with the Planning Commission to vet out the redundancies and errors *prior to presentation to the City Council for final review.*

This is a summary of key issues; this commentary on issues, concerns and proposed changes continues with the COI attachment: "COI Comments on General Plan Specifics – 12/14/09 and is part of this commentary document submitted for review to the City Council, Planning Director and Planning Department.

Thank you for the opportunity to comment on the draft Plan; COI looks forward to continuing to work with the City through completion of the Plan updating process.

Sincerely yours,

Katrinka Ruk  
Executive Director  
Council of Industries

Cc: Lori Reese-Brown, Principal Planner-General Plan  
Richard Mitchell, Planning Director  
Bill Lindsay, City Manager  
COI, Board of Directors  
Judy Morgan, Richmond Chamber of Commerce  
Planning Commissioners

/ enclosures

