

**FINAL
ENVIRONMENTAL IMPACT REPORT
HERCULES NEW TOWN CENTER**

State Clearinghouse No. 2007062002

Prepared by:

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Prepared for:

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10.0 RESPONSE TO COMMENTS

10.1 INTRODUCTION

The Hercules New Town Center Draft Environmental Impact Report (Draft EIR) was circulated for a 45-day public review period beginning October 20, 2008, and ending December 3, 2008, as assigned by the State of California Governor's Office of Planning and Research State Clearinghouse and consistent with the California Environmental Quality Act Guidelines (*CEQA Guidelines*). Copies of the document were distributed to state, regional and local agencies, as well as organizations and individuals, for their review and comment.

Section 15088(a) of the *CEQA Guidelines* states that:

“The lead agency shall evaluate comments on environmental issues received from persons who reviewed the Draft EIR and shall prepare a written response. The lead agency shall respond to comments received during the noticed comment period and any extension and may respond to late comments.”

In accordance with Section 15088(a) of the *CEQA Guidelines*, the City of Hercules Redevelopment Agency (City RDA), as the lead agency, has evaluated the comments received on the Draft EIR for the Hercules New Town Center project and has prepared written responses to the comments received.

All comments on the Draft EIR, and the responses thereto, are presented in this document. Section 10.4 provides a list of all those who submitted comments on the Draft EIR during the public review period. Section 10.5 contains all of the comments received on the Draft EIR along with responses to each. These responses include identifying text revisions in the Draft EIR. Text changes resulting from comments on the Draft EIR, as well as staff-initiated text changes, are presented in Chapter 11.0 (Revisions to the Draft EIR). Revisions to the Draft EIR text are indicated by underline text (underline) for text additions and strike out (~~strike out~~) for deleted text. The location of changes is also noted by a vertical line in the right margin. Revised figures and tables are identified with the word “revised” in front of the figure or table number.

10.2 CONTENTS OF FINAL EIR

The Final EIR is composed of the following elements:

- The Draft EIR
- A list of persons, organizations and public agencies that commented on the Draft EIR
- Copies of all comments received
- Written responses to those comments
- Revisions to the Draft EIR resulting from comments

10.3 CERTIFICATION OF FINAL EIR AND APPROVAL PROCESS

For a period of at least ten days prior to any public hearing during which the lead agency will take action to certify an EIR, the Final EIR will be made available to, at a minimum, the trustee and responsible agencies that provided written comments on the Draft EIR. Pursuant to Section 15090(a) of the *CEQA Guidelines*, the Final EIR must be certified before the lead agency can take action on the project.

Following Final EIR certification, but prior to the public agency taking action on the project, the lead agency will prepare a Mitigation Monitoring and Reporting Program (MMRP). Before approving (or conditionally approving) the project, the City must prepare written CEQA findings for each significant impact identified for the project, accompanied by a brief explanation of the rationale for the finding, in accordance with Section 15091 of the *CEQA Guidelines*. If significant environmental impacts that cannot be reduced to a less-than-significant level are identified for the project, the lead agency must prepare a Statement of Overriding Considerations, pursuant to Section 15093 of the *CEQA Guidelines*. Four significant and unavoidable impacts were identified for the Hercules New Town Center project.

Certification of the Final EIR and approval of the CEQA findings, Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program may be considered during one final public hearing. The certification of the Final EIR must be the first in this sequence of approvals.

10.4 LIST OF COMMENTORS

All commentors on the Draft EIR are listed below. Each comment is identified with a two part numbering system. The first number corresponds to the number assigned to the comment letter. The second number corresponds to the order of the comment within the letter identified. For example, Comment 1-1 refers to the first comment in the minutes from the November 17, 2008 Planning Commission meeting, and Comment 7-5 refers to the seventh comment letter received and the fifth comment identified in the letter.

10.4.1 PLANNING COMMISSION

Comment #1: Myrna de Vera, Planning Commissioner

Comment #2: Jose Bibal, Planning Commissioner

Comment #3: Sherry, McCoy, Planning Commissioner

10.4.2 PUBLIC AGENCIES/UTILITIES

Comment #4: Rhaphaelle Dowell, Pacific Gas and Electric Company

Comment #5: Donald Koch, California Department of Fish and Game

- Comment #6: Mario A. Consolacion, Contra Costa County Flood Control & Water Conservation District
- Comment #7: William R. Kirkpatrick, East Bay Municipal Utility District
- Comment #8: Mark D'Avignon, U.S. Army Corps of Engineers
- Comment #9: Lisa Carboni, California Department of Transportation
- Comment #10: Rich Shimano, Contra Costa County Public Works Department, Transportation Engineering Division
- Comment #11: Jamar Stamps, Contra Costa County Department of Conservation & Development
- Comment #12: Alan Biagi, Rodeo-Hercules Fire District
- Comment #13: Jean Roggenkamp, Bay Area Air Quality Management District
- Comment #14: City of Hercules, Engineering/Public Works

10.4.3 GENERAL PUBLIC

- Comment #15: Marla Wilson, Greenbelt Alliance
- Comment #16: Richard Drury, Weinberg, Roger & Rosefeld
- Comment #17: Tanya A. Gulesserian, Adams, Broadwell, Joseph & Cardozo
- Comment #18: Richard Drury, Weinberg, Roger & Rosefeld
- Comment #19: Janet Laurain, Adams, Broadwell, Joseph & Cardozo
- Comment #20: Patricia M. Gates, Weinberg, Roger & Rosefeld
- Comment #21: Janet Laurain, Adams, Broadwell, Joseph & Cardozo
- Comment #22: SMS Delaware
- Comment #23: Janet Laurain, Adams, Broadwell, Joseph & Cardozo
- Comment #24: Mike Bowermaster

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10.5 RESPONSES TO INDIVIDUAL COMMENTS

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Comment #1

Steve Lawton

From: MyrnaLdeVera@aol.com
Sent: Friday, November 14, 2008 12:14 PM
To: Dennis Tagashira
Cc: Nelson Oliva; Steve Lawton
Subject: Questions and Comments Re: Hercules New Town Center Draft EIR

Dear Dennis,

Below are my initial questions and comments regarding the Hercules New Town Center Draft EIR. Please forward them to the appropriate consultants. I tried to articulate my questions as best as I could, but if you wish clarifications regarding any of my questions or comments, please feel free to call me at (510) 685-9074.

Sincerely,
Myrna de Vera

Hercules New Town Center – Draft Environmental Impact Report

Questions and Comments from Myrna de Vera, Planning Commissioner:

1. (page 2-22) – **2.8 Mitigation Monitoring** – Who approves/oversees the mitigation monitoring process? How do we hold the project sponsor accountable for complying with the various mitigations planned in this EIR? | 1-1

2. **Ramp Relocation** – Please include a site plan of the proposed Ramp Relocation in the EIR to help us visualize better the relationship of freeway exits/entrances, expansion of roads, etc. | 1-2

3. (page 3-13) **NTC District Relationship to CHP Code** – Upon adoption of the NTC District, would it supersede the CHP Code? We discussed this during the Ad-Hoc meetings but would like to clarify this again. | 1-3

4. (page 3-14) **3.5.2 Market Town Project** – If for some reason the FPDP is revised, would this EIR still be applicable since the EIR authors took the conservative approach and based the impacts on the 1 | 1-4

5. (page 3-19) **Architecture and Design** –During the Ad-Hoc Committee meetings, we had agreed that Building B2 (office) with Bay Area Modern Industrial style would **not** be aesthetically pleasing and that a Mid-Century Modern style (pre- and post- second world war developments in modern design, architecture from roughly from 1933 to 1965) would be more appropriate, as per Town Architect Stefan of Opticos and agreed upon by the ad-hoc commissioners. Why does the EIR not reflect this decision? | 1-5

6. (page 4.3-17) **Scenic Resource Impacts** – How can the planning commission reconcile the | 1-6

12/5/2008

inconsistency with Market Town's dense development of 3 to 5 storey buildings versus the reduced building mass specified in the General Plan's scenic corridor policies and the Scenic Road and Highway Overlay District?

1-6
Continued

7. (page 4.4-9) **Sensitive Receptors** – Since sensitive receptors include athletic facilities and health care facilities, why aren't the Hercules Fitness Center and the Venture Medical Center at North Shore Business Park, Alfred Nobel Park included in Table 4.4-2 Sensitive Receptors? 1-7
8. (page 4.4-16 – 17) **Global Climate Change Regulatory Programs** – It was interesting to read the various programs and that CEQA will adopt guidelines for global climate change impacts by 2010. As regulatory programs get updated and implemented, would the NTC EIR have to be updated, especially since the last phase will be built on 2035? 1-8
9. Were green building codes considered as part of mitigating global climate change impacts? Most of the mitigation seems to rely on reducing carbon emissions from autos. 1-9
10. (page 4.10-19) **2035 No Project and 2035 Plus Program Noise Scenarios** – Since the traffic is projected to increase tremendously by 2035, why is the noise level difference between no project and plus project is only 0.8 dBA? 1-10
11. (page 4.11-1) **Population and Housing – Cumulative and Growth Inducing Impacts** (5.4, 5.4.2) - Did the EIR consider the other planned developments when projecting the population and the cumulative and growth inducing impacts? If the anticipated growth for NTC is 58% of the GP's anticipated build-out growth, then will the other projects only be allocated 42% of the growth?

In 2007, there were 23,975 residents in Hercules.
By 2035, NTC will result in an additional 3,482 residents, thus increasing the population to a total of 27,475.

But in looking at the other developments, the total number of additional residential units planned totals to approximately 2,056.

Waterfront – 1,224 residential units
Sycamore Downtown – 96 residential units
Hilltown – 640 residential units
Hercules Crossing – 96 residential units (I assumed this figure since I couldn't find data on this project)

If the figure of 2.11 persons per multi-family household is used, then the other developments may result in an additional 4,338 residents. Added to the population from NTC of 3,482, the population from all developments would then total 31,813, an amount much greater than the General Plan's build-out figure of 29,927.

1-11

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- | | |
|--|-------------------|
| Doesn't this higher projected population mean that the cumulative growth of population is inconsistent with the policies set in the General Plan and the impact would be potentially significant? | 1-11
Continued |
| 12. (page 4.14-29) Baseline Conditions Intersection Operations – The Willow Ave/Sycamore Avenue intersection results in a decrease of LOS of E. Why then is it stated that there is “less than significant impact” and that “no mitigation” is required? (In 4.4-20, it states that a significant impact would occur if it degrades to an unacceptable level LOS E or F and the General Plan requires all intersections should operate at LOS D or better.) | 1-12 |
| 13. ((Figure 4.14-7b) Traffic - If available, please provide site maps of the mitigation measures for traffic impacts. (It would be easier to visualize than the schematics in the figure.) | 1-13 |
| 14. Traffic . At the Ad-Hoc meetings a plan for a roundabout at Palm Ave/Willow Avenue was presented. Is a roundabout still considered as a mitigation measure or will the intersection have a traffic signal as shown in the EIR? Also a possible underground tunnel was explored. Is this still a mitigation option? | 1-14 |
| 15. Traffic - Where will bike lanes be located? Was bike traffic and pedestrian traffic considered when studying the auto traffic impacts? | 1-15 |
| 16. (page 5-5) Public Services, Utilities and Service – Please explain the statement that the additional population from NTC would <i>not</i> create a substantial additional demand for law enforcement services. How did you obtain the low “approximately one percent figure” for additional police when there would be an additional population of 844 (Market Town) to 3,482 people (2035 complete NTC)? | 1-16 |
| How can the cumulative effects of the additional population generated from this proposed project and the other planned developments possibly not result in significant environmental effects related to public services and utilities? | |
| 17. (page 6-33) Environmentally Superior Alternative – Since the No Project/No Build with No Ramp Relocation Project is the environmentally superior alternative, and CEQA requires that another alternative be chosen --- which alternative does the EIR identify as the environmentally superior alternative? | 1-17 |
| 18. (page 7-1) Significant and Unavoidable Impacts – What is the EIR consultant’s opinion regarding the significant and unavoidable impacts on air quality, noise, and traffic, versus the benefits of developing the New Town Center project? | 1-18 |

12/5/2008

Response to Comment #1, Myrna de Vera, Planning Commissioner

- 1-1. The California Environmental Quality Act (CEQA) requires public agencies to establish monitoring and reporting programs to ensure compliance with those mitigation measures adopted or made as a condition of project approval to mitigate or avoid significant environmental effects identified in an Environmental Impact Report (EIR). The City Council would approve the project's Mitigation Monitoring and Reporting Program (MMRP) while City staff would oversee the implementation and monitoring of the MMRP. The project sponsor for the Market Town project, as well as future project sponsors within the Hercules New Town Center (HNTC) planning area, would be accountable for all mitigation measures outlined in the MMRP. The City has various methods to ensure the project sponsor complies with the MMRP, including withhold building or occupancy permits.
- 1-2. A final alignment for the Ramp Relocation Project has not yet been determined. However, the Draft Project Study Report for the Ramp Relocation Project identifies three potential alternatives as well as the preferred alternative (Diamond Ramps). An exhibit illustrating the three alignment alternatives is included in the Final EIR as Appendix F (Ramp Relocation Project Alternatives).
- 1-3. The New Town Center (NTC) District would cover parcels that are within the geographical area covered by the Central Hercules Plan (CHP) Code. With exception of the Loop parcel, prior to the enactment of the NTC District, the CHP Code is "permissive" as it relates to the parcels that would be included within the NTC District. Upon adoption of the NTC District, the CHP Code would no longer apply within the NTC District. However, the City Council, prior to approving any Initial Planned Development Plan (IPDP) or Final Planned Development Plan (FPDP) within the NTC District, would be required to make a finding that the proposed plan is consistent with the general planning and design intent with the CHP Code.
- 1-4. The Draft EIR prepared for the proposed project analyzes impacts of both the IPDP and FPDP. If substantial changes are made to the IPDP or FPDP, further environmental documentation could be required prior to project approval.
- 1-5. The comment does not address the content or adequacy of the Draft EIR, as the merits of a particular architectural style is beyond the scope of an EIR.
- 1-6. Any inconsistencies with existing adopted General Plan policies would require a General Plan Amendment, which is reviewed by the Planning Commission and approved by the City Council. In order for the Planning Commission to recommend approval of a project, such as the IPDP and FPDP applications, findings with facts are required to be made by the Planning Commission, which state that the project is substantially in compliance with the goals, policies and programs of the City's adopted General Plan.

The NTC land use designation and zoning district propose development standards that may be inconsistent with the current General Plan. However, the City Council may find that the proposed land use designation and zoning district are substantially in compliance with the General Plan. Otherwise, amendments to the General Plan to provide consistency would be required.

- 1-7. The Hercules Fitness Center and Venture Professional Center are not considered sensitive receptors because they are located in the North Shore Business Park, which is designated for commercial/office use. In addition, both facilities are not locations where people can be for 24 hours, such as a hospital or athletic field/park. Therefore, they are not considered sensitive receptors.
- 1-8. Once the Hercules New Town Center Final EIR is certified, no revisions can be made to the document. Any regulatory updates that occur following certification would be considered in subsequent environmental documents as the HNTC planning area is built out.
- 1-9. The Green Buildings Initiative and LEED Certification have been added to Table 4.4-3 (Applicable Global Climate Change Strategies) as strategies for reducing greenhouse gas emissions.
- 1-10. As indicated in Table 4.10-11, on Sycamore Avenue west of San Pablo Avenue, the project would result in approximately 4,292 average of daily trips (ADT) for “2035 No Project” and approximately 5,243 ADT for the “2035 Plus Program.” This is a difference of approximately 951 vehicular trips and would increase noise levels by approximately 0.8 dBA.

To determine this number, noise models were run using the Federal Highway Administration’s Highway Noise Prediction Model (FHWA RD-77-108) together with several roadway and site parameters. These parameters determine the projected impact of vehicular traffic noise and include the roadway cross-section (e.g., number of lanes), roadway width, ADT, vehicle travel speed, percentages of auto and truck traffic, roadway grade, angle-of-view and site conditions (“hard” or “soft”). The model does not account for ambient noise levels (i.e., noise from adjacent land uses) or topographical differences between the roadway and adjacent land uses. Noise projections are based on modeled vehicular traffic as derived from the Transportation/Traffic Section of this EIR, prepared by Fehr & Peers.

- 1-11. The land use projections used in Chapter 5.0 (Cumulative and Growth Inducing Impacts) include all approved and pending projects within the City as well as a significant amount of speculative development that may occur over the next 30 years. Population estimates provided in the chapter are based on information from the California Department of Finance and the U.S. Census 2000, but can vary. The residential unit estimates provided for the other proposed developments are based on the General Plan, but population estimates for those units are not known at this time. Additionally, growth due to development, other than the proposed project, will be analyzed in subsequent environmental documents as the HNTC planning area is built out.
- 1-12. The General Plan does indicate that intersections should operate at LOS D or better. The General Plan does, however, identify exceptions where LOS E is determined to be an acceptable threshold. The Willow Avenue/Sycamore Avenue intersection is one of the identified exceptions in the General Plan. The determination that the project would have a “less than significant impact” was because the intersection would

operate at LOS E with or without the project, The LOS E standard is noted on page 4.4-19 and it is consistent with the General Plan.

- 1-13. Illustrations of mitigation measures are not available at present. The final improvements (which may involve other consideration beyond project traffic mitigation) would be incorporated as part of the City of Hercules Mobility Plan, an internal planning document being prepared by Kimley-Horn.
- 1-14. Either a roundabout or a signalized intersection with a wider railroad underpass would provide acceptable traffic operations with build-out of the HNTC planning area, and both remain potential mitigation options. An underground tunnel is not being considered due to the expense and logistical issues surrounding the railway overpass.
- 1-15. There is currently no integrated plan map showing the pedestrian/bike paths of travel across all current and proposed future public and private improvements in Central Hercules. These would be incorporated as part of the City of Hercules Mobility Plan (see response to comment 2-13 above). As noted in the Draft EIR (page 4.14-74), bike lanes and sidewalks are defined for Willow, Sycamore and San Pablo Avenues in the project vicinity. Provision for safe and adequate facilities for bikes and pedestrians was considered in the traffic analysis. Pedestrian volumes and crossing times were accounted for in the intersection analysis.
- 1-16. Development of the proposed project is anticipated to increase the number of calls to the Police Department by approximately 180 additional calls per year. The HNTC planning area is approximately 35 acres, which is .008% of the total land area of the City. Based on .008% of 22,552 calls for service (in 2006), the planning area would result in approximately 180 additional calls for service in a year. At this time, the Police Department cannot determine to what level staff or facilities would be impacted by the proposed amendments to the General Plan and Zoning Ordinance; however, 180 additional calls would represent less than a one percent increase in service requests over 2006 levels. This would not create a substantial demand for law enforcement services.
- 1-17. As stated in Section 6.5 (Environmentally Superior Alternative) of Chapter 6, Alternatives, of the Draft EIR (page 6-33), "None of the Project Alternatives, including any of the No Project Alternatives, is clearly environmentally superior to the proposed project." The discussion states that the No Project/No Build (Status Quo) With No Ramp Relocation Project would reduce all of the potentially significant and significant and unavoidable impacts associated with the project; however, it would not meet any of the project objectives, would conflict with vision of the Central Hercules Plan for the HNTC planning area and would not be consistent with the underlying purpose of the Central Hercules Plan.

Each of the "No Project" alternatives would reduce the project's impacts on air quality, geology and soils, hazards and hazardous materials, hydrology and water quality, noise, public services, utilities and service systems, and recreation. Alternative 4 (Development of HNTC Program with No Ramp Relocation Project) would also reduce project impacts on biological resources (California red legged frog and California red legged frog habitat), as the Ramp parcel would not be redeveloped. The

analysis and discussion also notes that there would not be appreciable reductions in project impacts with any of the alternatives that is not a "No Project" alternative and similar significant, but mitigable impacts and significant and unavoidable impacts would remain with each alternative.

Although none of the alternatives that is not a "No Project" alternative is clearly environmentally superior to the proposed project, based on the comparison of alternatives, Alternative 6 (Market Town Project Only) would be the environmentally superior alternative. This is because out of all other alternatives that is not a "No Project" alternative, Alternative 6 would have the smallest development potential and, therefore, would construct the least amount of building space and would have the fewest number of people (in particular residents). In turn, it would have the greatest reduction in the severity of project impacts out of the alternatives that is not a "No Project" alternative. However, Alternative 6 would create a much smaller town center for the City. Additionally, it would not be consistent with the Central Hercules Plan vision for the HNTC planning area, as the area would not redevelop with a pedestrian- and transit-friendly mix of uses, including retail, office and residential. Nor would it be consistent with the underlying purpose of the Central Hercules Plan because it would not create a true "town center." Thus, Alternative 6 would not meet all the project objectives.

- 1-18. The comment does not address the content or adequacy of the Draft EIR, and it would not be appropriate for EIR preparers to offer an opinion regarding the worthiness of the proposed project. CEQA requires the decision-making body to balance, as applicable, the economic, legal, social, technological, or other perceived benefits of a proposed project against its potentially significant and significant and unavoidable environmental impacts when determining whether or not to approve a project. If the perceived benefits outweigh the unavoidable adverse environmental effects, the environmental impacts may be considered acceptable. As such, the City Council will make the final determination as to the reasons the project's benefits outweigh its environmental impacts if they decide to approve the project.

Comment #2

Dec 3, 2008 16:03

Comments/notes on Hercules NTC's Draft EIR

By: JOSE N, BIBAL, *Planning Commissioner*

This future endeavor about mixed-use project should be a welcome example of smart-growth revitalization of the City of Hercules. This improvement should promote and provide the future vitality of the City. The project should result in new residents, with a need for more adequate police, fire, library and school facilities. The project should also be able to generate adequate sales tax and other tax revenues to contribute to the upkeep of city services for all residents.

Hopefully, a reasoned development will truly benefit our community.

Here are some comments. Although quite generalized, the ideas are not quite conclusive at present.

- 1) Traffic generation – how do we minimize/ease environmental impact and commute burden
 - Cut-through traffic during construction and off-construction hours
 - Large truck stagings during construction
 - Mitigation measure if traffic becomes obtrusively permanent
 - Trip data - trip monitoring on an on-going basis and penalties if numbers are exceeded
 - baseline plan conditions versus project-generated data
- 2) Impact on water-use rationing
 - Water conservation measures
 - High-efficiency water-based appliances
 - Water recycling
- 3) Construction debris mitigation measures – potential health hazards from on-ground and airborne
- 4) Security measures during construction period – who absorbs the cost of City staff's time for meetings with on-site security personnel (if there is any)
- 5) Minimize the potential impact on city infrastructure during construction, i.e. degradation of city services
- 6) LEED certification status? Incorporation of current standards...

- 7) Utilization of trees/plants and other landscaping schemes which are drought-tolerant | 2-7
- 8) Implementation of recycling and waste reduction programs for future tenants/shoppers | 2-8
- 9) Impact of discharge of contaminated water on storm drains during construction phase | 2-9
- 10) Do we have a “buffer” between supply and demand of water supply and requirements during the construction phase? | 2-10
- 11) Does new development “protect” streets from out-of-area vehicle parking? | 2-11
- 12) Rooftop access for solar facilities? | 2-12
- 13) Anticipation – charging areas of electric vehicles in the future? | 2-13
- 14) HTC fully operational before the start of NTC construction? | 2-14

Hopefully, given the City’s current infrastructure, this additional proposed development can be supported effectively with existing infrastructure, taking into account the suggested mitigation measures noted in the EIR. Notably, all mitigations should be in place prior to issuance of occupancy certification of the project. In effect, this project should generate an aesthetic and environmentally-sound new space, and not just the usual addition of a “walled” corridor.

Hercules will be my City for a long, long time...

Thank you.

Response to Comment #2, Jose N. Bibal, Planning Commissioner

- 2-1. Construction management plans are typically made a part of the conditions of project approval as a way to manage construction-related activities, both transportation and non-transportation related. A construction management plan could include the following:
- Location of construction staging areas for materials, equipment, and vehicles.
 - Notification procedures for adjacent property owners and public safety personnel regarding when major deliveries, detours, and lane closures will occur.
 - Identification of haul routes for movement of construction vehicles that would minimize impacts on vehicular and pedestrian traffic, circulation and safety; and provision for monitoring surface streets used for haul routes so that any damage and debris attributable to the haul trucks can be identified and corrected by the project applicant.
 - Provisions for removal of trash generated by project construction activity.
 - A process for responding to, and tracking, complaints pertaining to construction activity, including identification of an on-site complaint manager.

Although not included as a mitigation measure, the City could include a requirement that the project sponsor prepare a construction management plan as a condition of approval.

- 2-2. The East Bay Municipal Utility District (EBMUD) advises all customers to plan for possible water shortages in time of drought. As such, EBMUD encourages existing and new customers to be more efficient via smart water practices such as improving irrigation efficiency and lowering landscape water requirements through appropriate plant selection. The proposed Market Town project and future projects within the HNTC planning area would implement EBMUD's smart water practices as well as comply with Assembly Bill (AB) 325 (Model Water Efficient Landscape Ordinance). Furthermore, according to the IPDP the Market Town project would achieve a high level of water efficiency and reduce water use compared to the average City resident. To reach this goal, the Market Town project would explore the use of xeriscaping, capturing rainwater and recycling wastewater for irrigation, and using water-efficient plumbing in the proposed Market Town buildings.
- 2-3. Potential hazards associated with construction debris are addressed in the Draft EIR. Section 4.8 (Hazards and Hazardous Materials) examined the potential for construction activities to accidentally release hazardous materials into the environment. Both the Market Town project and future projects within the HNTC planning area would have the potential to release hazardous materials during site construction (e.g., grading or excavating). However, implementation of identified mitigation measures would reduce potential impacts to a less than significant level.
- 2-4. There are no plans for the use of on-site security personnel during construction of the Market Town project or for future construction within the HNTC planning area.

- 2-5. Section 4.12 (Public Services, Utilities and Service Systems) of the Draft EIR examines the project's potential impact on public services including water, wastewater, solid waste, police, fire protection and schools. The Draft EIR concluded that the both the Market Town project and future projects within the HNTC planning area could be adequately served by each of the respective agency responsible for those services. No construction related impacts associated with the provision of public services were identified in the Draft EIR. As such, degradation of existing public services is not anticipated.
- 2-6. According to the IPDP, the proposed project intends to obtain Leadership in Energy and Environmental Design (LEED) for New Construction certification, LEED for Neighborhood Development certification, or certification from another similar, recognized rating system. The project sponsor is committed to incorporating green building practices and meeting the goals of sustainable development. The following sustainable development goals are proposed in the IPDP:
- **Reduced Driving Through Land Use and Transportation Decisions:** The project will be centrally located with a variety of transportation choices. In addition, the mixed uses will provide a variety of needs to serve the residents of Hercules and be at a density to support transit use.
 - **Climate Change and Energy Conservation:** The project will be designed to be energy efficient and would result in less vehicle miles traveled due to resident needs being met onsite.
 - **Environmental Design/Site Planning:** Create a building that works in collaboration with its site and contributes to its ecological functioning. To fulfill this goal, the project will pursue innovative stormwater management techniques and include some native landscaping.
 - **Street and Public Space Design:** Design streets and public space as aesthetically pleasing places that encourage walking, gathering, and lingering.
 - **Indoor Air Quality:** Ensure that the buildings achieve a high level of indoor air quality. This will be achieved by selecting building materials that result in a non-toxic indoor air environment and ensuring that vehicle emissions from nearby roadways do not create adverse health impacts on residents.
 - **Recycled, Reused and Green Materials:** To the greatest extent feasible, the project will use materials that are recycled, reused, or produced with a low-impact method, construction waste will be recycled and the buildings will contain on-site recycling facilities.
 - **Water Efficiency:** The project will achieve a high level of water efficiency through incorporating such techniques as: xeriscaping in select locations, capturing rainwater and recycling rainwater for irrigation, and water-efficient plumbing in buildings.
 - **Enduring Construction Quality:** The project will be constructed with high quality materials and with a design that is enduring. This will encourage future generations to preserve and enhance buildings rather than tearing them down after the depreciation period.

- 2-7. As described in Response 3-6, the project proposes to incorporate sustainable development goals, including Environmental Design/Site Planning. This goal would create a building that works in collaboration with the site and contributes to its ecological functioning. This includes utilizing innovative stormwater management techniques and incorporating native landscaping, including drought tolerant plants.

Additionally, under California AB 325, all developer installed landscaping must be accompanied by a landscape package that documents how water use efficiency would be achieved through design.

- 2-8. The Draft EIR does not specifically address recycling and solid waste reduction. However, the City is required to reduce solid waste pursuant to AB 939 (Integrated Waste Management Act).
- 2-9. There are standard water quality regulations in place that would prevent contaminated stormwater from being discharged from a construction site. As described Section 4.9 (Hydrology and Water Quality) in the Draft EIR, the construction of the Market Town project and future projects within the HNTC planning area would be required to obtain coverage under the General Permit by filing an Notice of Intent with the State Water Resources Control Board (SWRCB) Division of Water Quality. The filing would describe erosion control and stormwater treatment Best Management Practices (BMPs) to be implemented during and following construction and provide a schedule for monitoring performance. These BMPs would serve to control point and non-point source pollutants and are a component of the Stormwater Pollution Prevention Plan (SWPPP) for construction activities. The SWPPP would include BMPs for preventing discharge of other non-point source pollutants to downstream waters. Compliance with these regulations would reduce construction-related water quality impacts to a less than significant level.
- 2-10. As stated on page 4.12-14, the proposed project would be served by EBMUD, which has sufficient water supply and existing entitlements to provide water during normal or wet years. In addition, EBMUD determined that the Market Town project does not require the preparation of a Water Supply Assessment because estimated water demand would be below the threshold established in the California Water Resources Code. Thus, water demands would be met during construction and all phases of the project.
- 2-11. The comment does not address the content or adequacy of the Draft EIR. Section 4.14 (Transportation and Traffic) analyzes the potential impacts associated with parking for both the Market Town project and future projects with the HNTC planning area. However, “out-of area” parking is not a subject examined in the Draft EIR as there are no City or proposed NTC District restrictions that would prohibit out-of-area vehicles from parking at the project site.
- 2-12. The comment does not address the content or adequacy of the Draft EIR. The City will consider this comment prior to project approval.
- 2-13. The comment does not address the content or adequacy of the Draft EIR. The City will consider this comment prior to project approval.

2-14. The comment does not address the content or adequacy of the Draft EIR.

Comment #3

17
Dec 3, 2008 06:22

To: Steve Lawton
From: Sherry McCoy
Subject: Questions and Comments for HNTC Draft EIR

Given below are my questions and comments for the HNTC Draft EIR.

Please contact me if you have any questions.

Questions by Topic:

Aesthetics:

What is the estimated timeline for visual impacts from the Market Town Project? | 3-1

Air Quality:

What is the estimated timeline for air quality impacts from the Market Town Project? | 3-2

What is the estimated long-term impact of the Market Town Project as well as cumulative impact of all projects to local air quality management plan? | 3-3

Noise:

What is the estimated timeline for noise impacts from the Market Town Project? | 3-4

The cumulative noise impact is considered significant and unavoidable – is this a city-wide impact or will it impact certain neighborhoods more than others? | 3-5

Does Table 4.10-15 (pg. 4.10-31) include all currently planned projects within the city or just the HNTC project? | 3-6

Traffic:

What will be the impact to traffic in the San Pablo/Sycamore/Willow area during Market Town construction? | 3-7

Of the 422 C1 parcel parking spaces, what % are assumed to be occupied for the traffic analysis? | 3-8

What is the anticipated increase in buses over the timeline (through 2035)? | 3-9

How does the increases in traffic impact any emergency plan for Hercules? | 3-10

The Willow Ave/Palm Ave intersection plan is for a traffic light rather than a traffic circle? | 3-11

Are the significant and unavoidable impacts to traffic, alternative modes of transportation and parking in conflict with aspects of the project objectives and, potentially, the underlying purpose of the Central Hercules Plan? | 3-12

Questions related to specific sections:

Pg 2-16

Section 2.3.11

Based upon numbers provided, it is estimated that there would be 2.11 people/unit in Market Town Project (from California Dept of Finance- pg 4.11-1). What did the California Dept of Finance use for deriving this value?

3-13

Pg 2-21

Section 2.6.5 and Table 6-5

Wouldn't the loss in residential and office/retail sq due the Market Town project not being implemented be partially offset by expanded development of the C-1 parcel?

3-14

Pg 3-9

Section 3.5.1

Given a purpose of the NTC District is to encourage development that promotes walking and biking, how will this be reconciled with the significant increase in traffic and the proposed mitigation measures?

3-15

Pg 3-17

Section 3.5.2

Based upon parking requirements listed in Section 2.1.2, it appears that 1002+15=1017 parking spaces is not sufficient. Have the parking requirements been revised?

3-16

Pg 4.11-1

Section 4.11.1

According to this section, as of May 2007, the city has 8,165 housing units with an anticipated additional need of 5,767 units by 2025. However, according to data in Section 5.2 (pg 5-1/5-2), between 2005 and 2035, the cumulative impacts analysis is based upon an additional 13,784 housing units. Why are these numbers so different? And does that difference impact other areas?

3-17

Pg 4.12-8 and 4.12-12

Section 4.12.3

As all current schools in Hercules are already over their working capacity, how will the impact of the new students from the Market Town project and future projects be mitigated beyond the payment of statutory fees?

3-18

Pg. 4.13-1

Section 4.13.1

What is the estimated completion date of the 26-acre waterfront park and the 4-acre neighborhood park?

3-19

Pg 4.14-11

Section 4.14.4

Given that the full characteristics of the projects (ie percentage of cars at BART parking facility from outside the city, the exits from 80 into Hercules don't directly pass the projects) are the 25% and 45% reductions appropriate?

3-20

Pg 4.14-25

If the peak hours expand, how does that impact the traffic analysis?

3-21

Pg 5-1/5-2 Section 5.2 Of the total growth anticipated for Hercules (2005 to 2035), listed at the top of pg 5-2, how much is already occurred?	3-22
Pg 5-4 Section 5.3.10 The population of Hercules is expected to increase 3,525 (according to ABAG) between 2007 and 2020, with a total population growth anticipated to be 29,927 by 2035 in the General Plan. If HNTC is expected to account for 3,482 people or 58% of the total growth, the cumulative effect of all other projects in Hercules is projected to be an increase in 2,470 people. Given other projects in the planning process, is this correct? And is the timeline, ie the growth estimates in the present to 2020 window versus the 2020 to 2035 window accurate?	3-23
Pg 5-5 Section 5.3.12 Given the growth and anticipated growth in the Waterfront area, as well as other planned areas for development, coupled with the increases in traffic, why are additional fire facilities not considered to be necessary?	3-24
What plans are in place to build new schools that will accommodate the timelines for population growth?	3-25
Pg 5-6 Section 5.4.1 1558 jobs would represent 24% of the 6618 jobs listed on pg 5-2. Is the 17% (on pg 5-2) considering different nos?	3-26
Editorial Comments:	
The list on pg 1-6 lists Recreation then Public Services,.....; the order in other sections is reversed – see 2.2.11 and 2.2.12/ 4.12 and 4.13/5.3.11 and 5.3.12, etc.	3-27
Pg 2-9, first full paragraph, second sentence – missing a word - into? Pg 2-19, section 2.6.1, last sentence -which are re-stated above – should ref to 2.1.3.	3-28
Pg 2-52 – Table 2-1, Population and Housing, second item lists 1425 new jobs which is different than Section 5.4.1 – 1558 jobs	3-29
Pg 2-53 – Table 2-1 – that the Market Town Project would not significantly alter the jobs/housing ratio is listed as a beneficial impact. However, on pg 2-10, the net increase of jobs over housing for the HNTC project as a whole is considered a beneficial impact.	3-30
Pg 4.14.-10 – total jobs from HTNC listed at 1415; pg 5-6 lists 1558 new jobs.	3-31
Pg 6-9 – Transportation/Traffic – end of first sentence has 2 periods.	3-32

Response to Comment #3, Sherry McCoy, Planning Commissioner

- 3-1. Discretionary approval for the proposed project is expected to be granted in 2009. Construction of the Market Town project is scheduled to begin approximately 12 months after approval. The proposed project is scheduled to be completed approximately 24 months after the start of construction.
- 3-2. Refer to Response 3-1 for the construction schedule.
- 3-3. Long-term air quality impacts associated with the Market Town project are discussed on page 4.4-30 of the EIR. Cumulative impacts to the local air quality management plan are addressed on page 4.4-32.
- 3-4. Refer to Response 3-1 for the construction schedule.
- 3-5. The significant and unavoidable noise impact would not be a Citywide impact. It would only impact areas that are adjacent to roadway segments surrounding the Market Town project site.
- 3-6. Table 4.10-15 lists the roadway segments that surround the HNTC planning area.
- 3-7. A construction management plan is typically made part of the conditions of project approval. All study intersections and road segments would operate at acceptable levels in 2013 with and without the Market Town project. The construction management plan is intended to ensure efficient access to and from the site during construction and that when temporary lane closures occur a comprehensive set of traffic control measures are implemented to minimize the impact to automobile traffic.
- 3-8. Parking occupancy is not a factor affecting traffic analysis. Instead, traffic generation is estimated based on land use (e.g., housing units and retail and office floor area). Thus, percentage occupancy for the parking was not assumed.
- 3-9. Because of uncertainties over transit funding in both the near and long term, the Draft EIR did not assume any increases in the level of bus service
- 3-10. It is reasonable to expect that response times for emergency service providers operating from current station locations would increase due to traffic delays. Only some of the delays anticipated to occur are due to project impacts; other delays are due to cumulative growth from other projects in Hercules and from regional traffic. The City of Hercules and the Rodeo Hercules Fire Protection District will continue to cooperatively plan for and provide funding mechanisms to protect acceptable response times Citywide by providing additional facilities, equipment and technical systems where necessary.
- 3-11. Refer to Response 1-14. Either a roundabout or a signal would mitigate impacts associated with build-out of the HNTC planning area at this intersection, and both remain potential mitigation measures.

- 3-12. Traffic operations are expected to be below acceptable thresholds in the future whether or not the project is constructed. The Zoning Ordinance Amendment being sought for the HNTC planning area would require each project to comply with the Central Hercules Plan.
- 3-13. The California Department of Finance (CDF) is the source of the housing data presented in the Draft EIR. CDF uses data from the U.S. Census Bureau for the year 2000, in particular, data sets H30 (Units in Structure) and H33 (Total Population in Occupied Housing Units by Tenure by Units in Structure) to calculate the average persons per household in multifamily units in the City. The 2.11 persons per multifamily housing unit was derived by dividing the number of persons (94) living in multifamily units (owner and renter occupied multifamily structures with 20 to 49 total units) in the City by the total number of multifamily structures (44) (94 persons ÷ 44 multifamily units = 2.11 persons per household).
- 3-14. Alternative 5 (Development of HNTC Program With No Relocation of BART Park-And-Ride Lot/Market Town Project), would result in 140,000 square feet less of office/retail uses, 360,000 less residential square footage and 400 less residential units when compared to the proposed project. Alternative 5 would not increase the intensity of allowable development on the C-1 parcel; therefore, it would not offset the loss of office/retail and residential uses proposed in the Market Town project.
- 3-15. Traffic operations are expected to be below acceptable thresholds in the future whether or not the project is constructed. The proposed NTC land use designation and zoning district would encourage pedestrian-friendly and transit-oriented development. Although the project would increase traffic, it would also increase opportunities for alternative modes of transportation.
- 3-16. As described in Section 4.14.10 (Parking Analysis) of the Draft EIR, the Market Town project would have a total deficiency of 87 parking spaces, which would be a potentially significant impact. Mitigation Measure TR20 requires that one of the following actions be taken: submit plans that provide an additional 87 parking spaces, prepare a shared parking agreement between users in the Market Town project, or submit plans with the amount of parking required by the City's soon to be revised Parking Ordinance (which could be reduce the amount of required parking). Mitigation Measure TR20 would reduce parking related impacts to a less-than-significant level.
- 3-17. The proposed project represents the largest amount of planned multifamily homes and retail/office space in the City. Section 5.0 (Cumulative and Growth Inducing Impacts) of the Draft EIR is based on year 2005 land use data in conjunction with land use projections for the year 2035. The land use projections include all approved and pending projects within the City as well as a significant amount of speculative development that may occur in the City over the next 30 years. This conservative approach was utilized to ensure that the cumulative analysis presented in the Draft EIR does not understate future cumulative impacts.

Since the total amount of growth provided in the cumulative analysis section includes speculative development, the growth projection numbers in the cumulative analysis section are not consistent with the Association of Bay Area Governments (ABAG) or

the City's General Plan growth projection numbers because neither of these sources includes speculative development. However, they are roughly the same.

- 3-18. As stated in Section 4.12 (Public Services, Utilities and Service Systems) pursuant to Section 65995(3)(h) of the California Government Code (Senate Bill 50), "the payment of statutory fees is deemed to be full and complete mitigation of the impacts of any legislative or adjudicative act, or both, involving, but not limited to, the planning, use or development of real property..." Thus, there is no need for the proposed project to be mitigated beyond the payment of statutory fees.
- 3-19. The comment does not address the content or adequacy of the Draft EIR.
- 3-20. Based on the analysis of the mix and density of land uses, and the volume of traffic on the streets immediately serving the project and program, the assumed rates of internal traffic and pass-by trips are appropriate and reasonable. The reductions for pass-by trips are based on national studies by the Institute of Transportation Engineers, and the internal traffic reductions are based on extensive analysis the effects of density and land use mixture in California.
- 3-21. When demand exceeds capacity in a corridor, many travelers divert to the shoulder hours (i.e., those hours before and after the peak hour) thus lengthening the peak period in which motorists experience delays. Predicting precisely how much the peak will lengthen is difficult, since travelers can and do respond to congestion in a variety of other ways as well (e.g., foregoing the trip completely; combining trips; making trips in the middle of the day; making trips on weekends; making trips to alternate locations; and choosing to make trips by alternative modes such as walking, bicycling and transit). The intent of the project's design is in part to facilitate walking, bicycling and transit as an alternative mode of transportation.
- 3-22. Section 5.0 (Cumulative and Growth Inducing Impacts) of the Draft EIR references the amount of growth expected in the City by 2035. These numbers include speculative development that may or may not occur over the next 26 years. Of the total amount of growth anticipated in the City (7,192 single-family homes, 6,592 multifamily homes, 6,618 retail and office jobs and 1,888 industrial jobs), approximately 25 percent of the growth has already been constructed or approved by the City.
- 3-23. Refer to Response 25-17. The growth projection timeline presented in the cumulative analysis section is based on the best available information at the time the Draft EIR was being prepared. Therefore, the growth projection for the 2035 build-out scenario is considered accurate.
- 3-24. Chapter 5.0 (Cumulative and Growth Inducing Impacts) has taken into consideration the growth that would result from the proposed project as well as other approved, pending, and future projects. According to Chief Biagi, with the Hercules-Rodeo Fire Department, current facilities would be able to accommodate growth within the planning area and the City. However, these facilities would need to be updated or modified to accommodate the additional personnel and equipment through the payment of development impact fees.

- 3-25. The comment does not address the content or adequacy of the Draft EIR. As stated in Section 4.12 and Chapter 5.0, the proposed project would pay its fair share in fees for schools and, thus, any impacts would be mitigated.
- 3-26. Refer to revision on page 5-2.
- 3-27. Refer to revision on page 1-6.
- 3-28. Refer to revisions on pages 2-9 and 2-19.
- 3-29. Revised Chapter 5.0 (Cumulative and Growth Inducing Impacts) to reflect numbers contained in Section 4.11 (Population and Housing).
- 3-30. The net increase of jobs over housing would increase the City's jobs/housing ratio and, thus, result in a beneficial impact, as stated on page 2-10 and in Table 2-1.
- 3-31. Refer to revision on page 4.14-10.
- 3-32. Refer to revision on page 6-9.



**Pacific Gas and
Electric Company**

1100 S. 27th Street
Richmond, CA 94804

Rhaphaelle Dowell
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1100 South 27th Street
Richmond, CA 94804

October 20, 2008

Comment #4

Mr. Steve Lawton
City of Hercules
111 Civic Drive
Hercules, CA 94547

Dear Mr. Lawton:

Re: Hercules New Town Center

Gas and electric service is available to the above referenced project.

Extensions of these facilities will be made in accordance with our gas and electric rules and regulations on file with the State of California Public Utilities Commission at the time the applicant applies for gas and electric service.

4-1

Any relocation of existing facilities would be done at the developer's expense.

If you have any questions, please call me at 510-231-3863.

Sincerely,

Rhaphaelle Dowell
Senior New Business Representative

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Response to Comment #4, Pacific Gas and Electric Company

4-1. Comment noted.