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1. INTRODUCTION

1.1 RELATIONSHIP BETWEEN THE DRAFT EIR AND FINAL EIR

The Final Environmental Impact Report (Final EIR) for the proposed Hercules Bayfront Project has been prepared by the City of Hercules (City), the Lead Agency, in keeping with state environmental documentation requirements set forth in the California Environmental Quality Act (CEQA). The City has prepared the Final EIR pursuant to the CEQA Guidelines, including sections 15086 (Consultation Concerning Draft EIR), 15088 (Evaluation of and Responses to Comments), and 15132 (Contents of Final Environmental Impact Report). In conformance with these guidelines, the Final EIR consists of the following **two volumes**:

(1) the **Draft EIR**, which was circulated for a 45-day State agency and public review and comment period on January 20, 2011; and

(2) this **Final EIR document**, which includes a list of all commenters on the Draft EIR during and immediately after the Draft EIR public review period; notes from the February 23, 2011 Planning Commission meeting and public hearing on the Draft EIR; verbatim versions of all written communications (letters and emails) received during and immediately after the Draft EIR review period; the responses of the EIR authors to all environmental points raised during the public meeting and hearing and in the written communications; and associated revisions to the Draft EIR. None of the revisions to the Draft EIR represents a substantial increase in the severity of an identified significant impact or the identification of a new significant impact, mitigation, or alternative considerably different from those already considered in preparing the Draft EIR.

Both volumes of the Final EIR are available for public review at the City of Hercules Planning Department, 111 Civic Drive, Hercules (phone 510-245-6529) and at the City of Hercules Library, 109 Civic Drive, Hercules (phone 510-245-2420). Both volumes are also posted on-line on the City's official website (www.ci.hercules.ca.us).

The responses to comments included in this document are correlated to the Planning Commission meeting/hearing notes and letters/emails by code numbers, which are posted in the right hand margin of the notes, letters, and emails.

Certification of this Final EIR by the City of Hercules City Council must occur prior to approval of the Hercules Bayfront Project.

1.2 PROJECT DESCRIPTION SUMMARY

This project description summary should not be relied upon for a thorough understanding of the details of the project, its individual impacts, and related mitigation needs. Please refer to Draft EIR chapter 3 for a complete description of the project, Draft EIR chapters 4 through 16 for a

complete description of identified environmental impacts and associated mitigation measures, and Draft EIR chapter 19 for an evaluation of alternatives to the project.

Hercules Bayfront, LLC (the project applicant) is proposing to develop a 42.36-acre portion of the City of Hercules Waterfront District Master Plan (WDMP) area with the Hercules Bayfront Project--a transit-oriented, mixed-use neighborhood that includes a variety of dwelling types and businesses, and an associated system of walkable streets, other pedestrian interconnections, and public plazas with views of San Pablo and San Francisco Bays.

The 42.36-acre project site is bounded generally by San Pablo Bay, Hercules Point, and the Union Pacific Railroad line on the north; the Northshore Business Park on the east; residential neighborhoods, including the Refugio Neighborhood (Baywood), Central Neighborhood (Promenade), and Central Quarter (Bayside), on the south; and San Pablo Bay and the San Pablo Bay Regional Shoreline on the west. The project site is currently undeveloped, except for two vacant structures: (1) the former Hercules Powder Company Clubhouse, and (2) the former Hercules Powder Company Administration Building. Both of these structures are identified historic resources.

Pursuant to City of Hercules General Plan established planning programs, a Waterfront District Master Plan (WDMP) was initially adopted by the City in July 2000 for a 167-acre planning area, generally known as the Waterfront Area, that encompasses the project site. The stated intent of the WDMP was "to guide development of the [Waterfront Area] property, and ensure that the goals and objectives of the General Plan are realized."¹ Corresponding amendments to the General Plan and Zoning Ordinance were also adopted by the City to incorporate the WDMP. The WDMP established the five "Planning Sub-Districts."

Since adoption of the WDMP in 2000, two of the five WDMP sub-districts--the Central (Promenade) Neighborhood and Refugio (Baywood) Neighborhood--have been completely built out. In July 2008, the Hercules City Council adopted a Waterfront Now Initiative (WDMP Initiative) which has amended the General Plan, Zoning Ordinance, and WDMP as necessary to reflect updated City objectives for the three remaining undeveloped WDMP sub-districts. The 2008 WDMP Initiative included an associated Hercules Bayfront Project Development Agreement. These amendments are intended to further guide and facilitate build-out of these sub-districts, including the Historic Town Center sub-district and Transit Village sub-district which include the 42.36-acre Hercules Bayfront Project site and adjacent Intermodal Transit Center site; and the Hercules Point sub-district.

The applicant has submitted the following set of Applications for Development Review (October 5, 2009):

- an "Application to Amend the City of Hercules General Plan Land Use Diagram"² to change the general plan designation of an approximately 1.19-acre portion of the 42.36-acre project site (Block J) from Residential Single Family Low-Density (RS-L) to Historic Town Center (HTC), as shown on Figure 3.10 (Proposed General Plan and Zoning Designation) in this EIR chapter;

¹The Bixby Company, Hercules Waterfront District Master Plan, incorporating Amendment 02-01; page 1.

²Hercules Land Use and Zoning Map, March 21, 2007.

- an "Application to Amend the City of Hercules Zoning Designation" to change the zoning designation of the same approximately 1.19-acre portion (Block J) of the 42.36-acre project site from Residential Single Family Low-Density (RS-L) to Historic Town Center (HTC);
- an "Application to Amend the Waterfront District Master Plan (WDMP)" in the form of a "Zoning Text Amendment" to incorporate proposed text revisions to the WDMP;
- an "Application to Amend the Development Agreement" to incorporate certain changes to ensure consistency with the proposed project; and
- a "Request to conduct CEQA Review," which includes the preparation of this EIR.

The project applications describe the following maximum development totals:

- a maximum of 1,392 multi-family (non-flex) residential units (125 of these units may be replaced with a 125-room hotel on Bayfront Boulevard);
- a maximum of 115,000 square feet of office (non-flex) floor area, which could include commercial or conference space as part of the adaptive re-use of the two historic buildings on-site;
- a maximum of 90,000 square feet of retail (non-flex) floor area; and
- a maximum of 134,000 square feet of flex space which may be developed as residential, office (including live/work), and/or retail space, of which no more than 67,000 square feet shall be permitted to be built as retail floor area. In addition, if all 134,000 square feet of flex space were developed with residential uses, the maximum number of residential units would be 134.

In addition, several supporting engineering proposals and public service and infrastructure actions ("shared facilities") would be necessary to implement both the Hercules Bayfront Project and the adjacent separately proposed Intermodal Transit Center (ITC) project. These shared facilities include an extension of John Muir Parkway, including construction of a Bayfront Bridge; associated Refugio Creek and North Channel restoration and drainage improvements; a Bay Trail/Promenade extension along the waterfront edge of the two projects; an emergency vehicle access driveway; and other supporting facilities and services.

2. RESPONSES TO COMMENTS ON THE DRAFT EIR

After completion of the Draft EIR, the Lead Agency (City) is required under CEQA Guidelines sections 15068 (Consultation Concerning Draft EIR) and 15088 (Evaluation of and Responses to Comments) to consult with and obtain comments from other public agencies having jurisdiction by law with respect to the project, and to provide the general public with an opportunity to comment on the Draft EIR. Under CEQA Guidelines section 15088, the Lead Agency is also required to respond in writing to substantive environmental points raised in this Draft EIR review and consultation process.

Comments on the Draft EIR were submitted in the form of letters and emails received by the City during and immediately after the Draft EIR public review period. Also, members of the Planning Commission voiced questions and comments at their February 23, 2011 meeting and public hearing on the Draft EIR; no members of the public raised any questions or comments at the hearing. Twelve letters and emails pertaining to the Draft EIR were received during the Draft EIR public review period. One additional letter was received three days after the close of the public review period; although not required under CEQA, a response to that letter is included for informational purposes in this Final EIR.

CEQA Guidelines section 15132 (Contents of Final Environmental Impact Report), subsection (b), requires that the Final EIR include the full set of “comments and recommendations received on the Draft EIR either verbatim or in summary”; section 15132, subsection (c), requires that the Final EIR include “a list of persons, organizations, and public agencies commenting on the Draft EIR”; and section 15132, subsection (d), requires that the Final EIR include “the responses of the Lead Agency to significant environmental points raised in the review and consultation process.” In keeping with these guidelines, this Responses to Comments chapter includes the following sections:

- a **list of Draft EIR commenters** (section 2.1), which lists each Planning Commissioner who commented at the February 23, 2011 Planning Commission meeting and public hearing (no members of the public commented during the public hearing), and each individual, agency, and organization that submitted written comments (letters or emails) to the City during and immediately after the Draft EIR public review period;
- a section of **responses to the February 23, 2011 Planning Commission meeting and public hearing questions and comments** (section 2.2), which includes notes taken during an on-line video replay of the meeting, followed by a summary of, and the response of the EIR authors to, each comment pertaining to Draft EIR content or adequacy (in addition to the responses voiced at the meeting and reported in the notes, clarifying information is provided in written responses included in this Final EIR section; also, many of the Planning Commission comments are repeated in subsequent emails from the Commissioners included in section 2.3 of this Final EIR); and
- a section of **responses to written comments received during and immediately after the Draft EIR public review period** (section 2.3), which includes copies of the 13 letters/emails

received, followed by a summary of, and the response of the EIR authors to, each comment therein pertaining to Draft EIR content and adequacy.

2.1 LIST OF DRAFT EIR COMMENTERS

The Planning Commissioners, individuals, agencies, and organizations that commented on the Draft EIR at the February 23, 2011 Planning Commission meeting, and in writing during and immediately after the Draft EIR review period, are listed below alphabetically. The Planning Commission meeting and each letter or email received is also identified by a code in parentheses--e.g., Planning Commission meeting PC 1, PC 2, etc.; and letters L 1, L2, etc. The code numbers are chronological in the general order that the comments were received.

2.1.1 Planning Commission Members, February 23, 2011 Meeting

Jose Bibal
Mike Bowermaster
Cletia Hart
Sherry McCoy
Richard Mitchell

2.1.2 Responsible and Interested Agencies

Christina M. Atienza, Executive Director, West Contra Costa Transportation Advisory Committee (WCCTAC) (L 11)
Lisa Carboni, District Branch Chief, Local Development--Intergovernmental Review, State of California Department of Transportation (L 13)
Belinda B. Espinosa, City Manager, City of Pinole (L 12)
Scott Morgan, Director, State Clearinghouse, State of California Governor's Office of Planning and Research (L 14)
Ian Peterson, Environmental Planner, Bay Area Air Quality Management District (BAAQMD) (L 2)
Moses Stites, Rail Corridor Safety Specialist, Consumer Protection and Safety Division, Rail Transit and Crossings Branch, State of California Public Utilities Commission (L 10)
Ming Yeung, Coastal Program Analyst, San Francisco Bay Conservation and Development Commission (BCDC) (L 1)

2.1.3 Individuals and Organizations

John M. Baucke, AICP CNU, President and CEO, New Urban Realty Advisors, Inc. (L 8)
Jose Bibal, City of Hercules Planning Commission (L 5)
Mike Bowermaster, City of Hercules Planning Commission (L 6)
Cletia Hart, City of Hercules Planning Commission (L 3)
Sherry McCoy, Chair, City of Hercules Planning Commission (L 9)
Al and Sandra Serrano (L 4)
Marla Wilson, Sustainable Development Associate, Greenbelt Alliance (L 7)

2.2 RESPONSES TO FEBRUARY 23, 2011 PLANNING COMMISSION MEETING AND PUBLIC HEARING QUESTIONS AND COMMENTS ON THE DRAFT EIR

The following section includes notes taken during an on-line video replay of the February 23, 2011 Planning Commission meeting and public hearing on the Draft EIR (including responses voiced at the meeting), followed by a summary of, and written response to, each comment pertaining to the content or adequacy of the Draft EIR or on a substantive environmental point. Many of the Planning Commission's comments are repeated in subsequent emails from the Commissioners, which are included in section 2.3 of this Final EIR. As indicated in this section 2.2, the responses to such duplicated comments are included in section 2.3 to align with the more detailed written comments provided by the Planning Commissioners. No members of the public raised any questions or comments during the public hearing.

The comments and responses are correlated by code numbers in the right margin of the meeting notes.

Hercules Bayfront Special PC Meeting (2-23-11):

No questions from the public.

PC

Commissioner Hart:

- happy we're preserving the two historic buildings

-one major concern is traffic impacts are going to be significant compared to what currently exists, and the project is going to significantly impact the freeway as well as Highway 4 because Highway 4 is getting busier and busier; she doesn't know how we're going to get around that impact in spite of extending John Muir and with Sycamore out there; now it seems to be getting worse every day

PC 1

-the other impact is on our schools, because as the EIR notes schools are at capacity now and new schools need to be built, but when that's going to happen?

PC 2

[Robert Reber, AICP, City of Hercules Senior Planner, explains, as he did before the comment period, that the role of an EIR and the purpose of CEQA are to provide information for the public and decision-makers, etc., and he also explains briefly the use of a Statement of Overriding Considerations]

Commissioner Bibal:

-would like to follow up on impacts on the environment...would like more (examples?) of the avoidable and unavoidable impacts of the project ...

PC 3

[Ray Pendro, Wagstaff/MIG Senior Project Manager, reads the SUs from the summary table]

Commissioner Mitchell:

-project is described as the old factory site, and there's nowhere on the site that can be called pristine or "never been touched" -- no virgin, early California land; all the land has been disturbed in some way, and following the industrial impacts and a period of non-use, there's still a creek and some birds, but after the project is done, this is going to be restored, right?

PC 4

[Ray Pendro, Wagstaff/MIG Senior Project Manager, mentions restoration of Refugio Creek]

-as for the traffic study, is the project being looked at completely separate and apart from the train station, or does this EIR include possible offsets coming from having the train station in place?

PC 5

[Ray Pendro, Wagstaff/MIG Senior Project Manager, explains: the ITC was included in the cumulative environment in 2035, and the EIR has conservatively given a 10% trip reduction credit, assuming transit center would be in place; the credit is low because transit center may not be in place before project is finished]

-did you consider a decline in auto use as a result of rising gas prices, or is it assumed there will be ever more driving?

PC 6

[Ray Pendro, Wagstaff/MIG Senior Project Manager: CEQA calls gas price increases speculation--no hard and fast formulas, but City can use it as a reason]

PC

-BAAQMD guidelines are being modified or suggest studying environmental impacts...

PC 7

[Ray Pendro, Wagstaff/MIG Senior Project Manager: confirms that EIR used the latest (March and June 2010 rules) BAAQMD guidelines and were updated in the EIR preparation process]

-were CalGreen building standards, calling for reduction in impacts of buildings, used in the EIR?

PC 8

[Ray Pendro, Wagstaff/MIG Senior Project Manager: CalGreen not included in building standards, but applicant has achieved LEED ND for mixed use potential but not building material or designs; standards are written into mitigations]

-how is final configuration of the project going to be determined? assuming City certifies the EIR, what happens in terms of finalizing design and getting to point of actually being built?

PC 9

[Ray Pendro, Wagstaff/MIG Senior Project Manager: we're not the developer; we're not involved in the design; the EIR is designed to comply with CEQA, to cover a "broader umbrella" or the larger numbers; the intent is not to have to go back and redo the EIR]

Commissioner Bowermaster:

-found EIR fascinating, that the General Plan calls for a waterfront plan, etc.; the WDMP calls for form based code, revised in Waterfront Initiative; pretty neat that City codes call for mixed use

PC 10

-pages 3-17 and 3-19: commissioner likes the percentage of retail and office; likes mixture and variety

-pages 3-21 and 3-22: Block D has the possibility of a 125-room hotel and Block J considered for civic and conference space; commissioner likes the variety

-pages 3-23 and 3-25: slight change in block heights (F, H, and J), 2-4 stories next to 2-story houses; what if 4th floor could be 50% of the area? the Palace of Fine Arts rendering did this stepping down rather nicely; could Block J be revised surrounding local street configuration?

-commissioner curious about new street layout: Crescent Heights getting harder to get to, perhaps should acknowledge that

-Figure 4.3 shows view down Main Street: commissioner likes hotel at end of Bayfront Blvd. but on Main Street it makes more sense to go in front of the Clubhouse Building instead of unnecessary jog

PC 11

-(section?) 3.5.5 Edge St "i" (Block I?) next to N. Channel Parcel(?) pedestrian path only? -- commissioner suggests that's an arbitrary location and it would be nice for shuttle vans from hotel to have more direct route to Bio-Rad

PC 12

PC

[Ray Pendro, Wagstaff/MIG Senior Project Manager: about visual simulations--these are worst case without setbacks, just massing; project has not been designed in detail, now just showing envelopes where buildings could fit; final design will not be regular blocks]

Commission Chair McCoy:

-what is the process of making some of the suggested changes within EIR that do not have anything to do with certifying EIR?

PC 13

[Robert Reber, AICP, City of Hercules Senior Planner: EIR reflects Waterfront Initiative and additional changes, etc.; applications would come to PC for approval after EIR certification, and changes could be made to them]

-traffic circulation pattern: one assumption has to do with new on- and off-ramps on Willow--the EIR uses that as basis for traffic modeling, but has Caltrans committed to that? if not, these traffic patterns could change; so is the analysis based on the new on-ramp off-ramp configuration compared to the ones currently existing today?

PC 14

[Ray Pendro, Wagstaff/MIG Senior Project Manager: traffic volumes, particularly cumulative conditions, were taken from Caltrans and other traffic models]

[John Wagstaff, Wagstaff/MIG Principal: Project Study Report being prepared, which means these on- and off-ramp modifications have moved quite a long ways; the FEIR will clarify the status; Regional Transportation Agency instructs us to assume that will be in place]

- one mitigation talks about I-80 eastbound access will cause some backup and that 2 lanes should be added from San Pablo to John Muir Parkway; the onramp to 80 might need 2 lanes, but the on ramp already has two lanes, so does this mean three lanes turning into one lane?

PC 15

-there's another Willow on ramp, a different style with smaller volume, but no attempt has been made to direct traffic to that entrance to ease traffic on W-80

[Ray Pendro, Wagstaff/MIG Senior Project Manager: more detail in the future...the traffic scope was coordinated with City engineer]

[John Wagstaff, Wagstaff/MIG Principal: we'll bring that question to F&P and coordinate with ITC people--FEIR will address this specifically and technically]

Commissioner Hart:

-has Westbound 4 traffic dumping onto 80 been taken into account?

PC 16

[Ray Pendro, Wagstaff/MIG Senior Project Manager: traffic study consistent with City model, and with City engineer, as well as with regional traffic model]

[John Wagstaff, Wagstaff/MIG Principal, concurs--FEIR will provide more info on how that was handled and what assumptions were used]

Chair McCoy:

-one mitigation utilizing Tsushima as access from Sycamore to San Pablo, adding lights and left-turn lanes, but this takes a local street and turns it into a thoroughfare, and takes LOS B to higher level; the neighborhood will be impacted by this traffic increase

PC 17

[Ray Pendro, Wagstaff/MIG Senior Project Manager: traffic distribution is set of assumptions evaluated by City traffic engineer and F&P, including which streets; City doesn't have to accept mitigation in EIR--can ask for things to be re-analyzed or ask for different "geometries" and traffic calming measures -- this is an "engineering" solution]

Chair McCoy:

-ITC and Hercules Bayfront completely are intertwined; this project seems to base the traffic and patterns on population that is comprised essentially of residents who live there and use the transit center--there's lots of walkability, but her understanding is that lots of regional traffic would come into the area to park and use the train station (coming in the morning and leaving in the evening) yet traffic pattern seems a more standard going to work in morning and coming home in evening; the traffic seems more focused on people living there than with the impact of ITC traffic

PC 18

[Ray Pendro, Wagstaff/MIG Senior Project Manager: the two different EIR traffic engineers worked side by side, so info should be consistent; ITC traffic generation and patterns are included in cumulative traffic scenario; not assumed under existing plus project; if assumptions are changed, then need to make in the EIR, and if they're from ITC dealing with shared facilities or growth, then back in to our EIR]

-alternatives: the reduced development scenario (19.3) shows some areas that reduce development to what would be there if there was no project, yet impacts show significant changes, even if only incremental changes to traffic/pollution; at the end the discussion seems a little dismissive in concluding that it would be the environmentally superior alternative even though it would be less effective in attaining project objectives; the Chair suggests that it wouldn't be less effective in developing a mixed-use neighborhood, but would be for lower heights, though would not achieve goals of project

PC 19

[Ray Pendro, Wagstaff/MIG Senior Project Manager: discussion and analysis related to "critical mass" of people in waterfront district and list of objectives in chapter 3]

-Chair is looking at the conclusion on page 19-11...

[Ray Pendro, Wagstaff/MIG Senior Project Manager: reads EIR page 19-11; the project objectives are not directly related to environmental impacts, but simply says what the project intends to accomplish outside of CEQA -- it's up to City to balance]

-as a point of clarification, the size of this project, whether as proposed or in alternative 19.3, that won't directly impact how many people come to the train station from outside (in theory); the train station is a regional transit center, so in theory there won't be a difference in how many people will come

PC 20

[Ray Pendro, Wagstaff/MIG Senior Project Manager: the conclusion relates to residents in the project]

-(Chair reads from EIR that) the number of visitors to train station would stay the same, right?

[Ray Pendro, Wagstaff/MIG Senior Project Manager: EIR also refers to people who might be working in office space or who would come to shop]

-Chair concurs

[Ray Pendro, Wagstaff/MIG Senior Project Manager: discusses alternative in more hypothetical depth]

-“okay, thank you very much”

Commissioner Hart:

-Railroad Avenue is now closed, but are there any plans to fix that portion between Hercules and Pinole to help ease traffic congestion?

PC 21

[Robert Reber, AICP, City of Hercules Senior Planner: the appropriate action would be to record comment, and then the FEIR will respond to that comment and viability of diverting traffic along Railroad Avenue from Hercules to Pinole]

Any public questions now? No.

Planning Commission Meeting; February 23, 2011

- PC 1 Transportation and Circulation--Commissioner Hart--The project is going to significantly impact the freeway as well as Highway 4, despite extending John Muir Parkway (as part of the proposed Hercules Bayfront Project/Intermodal Transit Center [ITC] shared facilities.).

Response: This comment is similar to more detailed, written comment L 3.01, also provided by Commissioner Hart. See response to comment L 3.01.

- PC 2 Public Services and Utilities--Schools--Commissioner Hart--The EIR notes that schools are at capacity now and new schools need to be built. When will new schools be built?

Response: As described in EIR section 15.5 (Schools): (1) "under current statutes and case law, payment of the required school impact fees would address the project's impact on school services to the furthest extent permitted by law"; (2) the "WCCUSD expects to help mitigate the project impact by adding classrooms to current school sites (if acreage allows) or possibly constructing a fourth elementary school"; and (3) the "WCCUSD has not identified any particular new school site on property that it owns." Speculating on the timing of new school construction is beyond the purview of the EIR.

- PC 3 General EIR Comment--Commissioner Bibal--Please provide examples of the avoidable and unavoidable impacts of the project.

Response: The most concise listing of significant avoidable and significant unavoidable impacts of the project is Draft EIR Table 2.1 (Summary of Impacts and Mitigation Measures).

- PC 4 Biological Resources--Commissioner Mitchell--All of the project site land has been disturbed over time, but the existing creek will be restored, correct?

Response: Correct. The Refugio Creek restoration and North Channel improvements are considered shared facilities between the proposed Hercules Bayfront Project and the proposed ITC project, as described in Draft EIR section 3.6 (Shared Facilities).

- PC 5 Transportation and Circulation--Commissioner Mitchell--Does the Hercules Bayfront Project EIR include offsets (trip credits) for when the proposed ITC train station is in place?

Response: Yes. As described in Draft EIR 16.3.2 (Project Trip Generation and Distribution), a conservative "10 percent reduction to vehicular trip generation was applied due to the proximity of transit services to the project site. The 10 percent transit service trip reduction rate is considered low; the actual reduction rate is expected to be considerably higher given the highly intermodal nature of the planned ITC." This conservative reduction was purposely used because, in case the ITC project is not built, the traffic impact analysis for the Hercules Bayfront Project EIR would still be considered valid.

- PC 6 Transportation and Circulation--Commissioner Mitchell--Does the EIR consider a decline in auto use as a result of rising gas prices, or is it assumed there will be ever more driving?

Response: Consistent with CEQA (section 15145--Speculation), the Draft EIR did not speculate on the relative cost of gas, and its effect on driving behavior, over the approximately 25-year timeframe of the EIR analysis.

- PC 7 Air Quality--Commissioner Mitchell--The Bay Area Air Quality Management District (BAAQMD) guidelines are being modified.

Response: The most recent BAAQMD CEQA Guidelines were adopted in June 2010; these guidelines were used in the Draft EIR analysis.

- PC 8 Air Quality and Climate Change--Commissioner Mitchell--Were CalGreen building standards used in the EIR?

Response: No. The Draft EIR applies the nationally recognized Leadership in Energy and Environmental Design (LEED) standards to the proposed project (see Mitigation 5-2 in chapter 5--Air Quality, and Table 7.2 in chapter 7--Climate Change).

- PC 9 Project Description--Commissioner Mitchell--Assuming the City certifies the EIR, what happens in terms of finalizing the project design?

Response: As described in Draft EIR chapter 1 (Introduction), the Final EIR must be certified before any action on project approval can be taken by the City. Final EIR certification is a separate process from project approval. More specific details of project design would be subsequent to Final EIR certification. In order for the certified Final EIR to apply to the project designs ultimately approved by the City, the City will need to ensure that the project designs do not exceed the maximum development standards and impact findings identified in the EIR.

- PC 10 Project Description--Commissioner Bowermaster--The Waterfront District Master Plan (WDMP) calls for a form-based code and mixed use development. Could the fourth floor of buildings on Blocks F, H, and J (adjacent to existing two-story residential) be limited to 50 percent of the area (i.e., with stepdowns)? Could Block J be revised to match the local street configuration?

Response: This comment is similar to written, more detailed comment L 6.07, also provided by Commissioner Bowermaster. See response to comment L 6.07.

- PC 11 Aesthetics--Commissioner Bowermaster--Regarding EIR Figure 4.3 (visual simulation), the new building on Main Street should be located completely in front of the existing Clubhouse.

Response: This comment is similar to written, more detailed comment L 6.08, also provided by Commissioner Bowermaster. See response to comment L 6.08.

PC 12 Project Description--Commissioner Bowermaster--Would Edge Street be a pedestrian-only path? It would be nice for shuttle vans from the potential hotel (part of the project) to have a more direct route to Bio-Rad (adjacent to the project site).

Response: This comment is similar to written, more detailed comment L 6.09, also provided by Commissioner Bowermaster. Please see response to comment L 6.09.

PC 13 Project Description--Commission Chair McCoy--What is the process of making some of the suggested changes (to the project) unrelated to certifying the EIR?

Response: See response to comment PC 9.

PC 14 Transportation and Circulation--Commission Chair McCoy--Has Caltrans committed to new on- and off-ramps at Willow Avenue? Is the EIR analysis based on this potential new configuration?

Response: This comment is similar to written, more detailed comments L 3.01 and L 9.07, the latter of which was also provided by Chair McCoy. See responses to those comments.

PC 15 Transportation and Circulation--Commission Chair McCoy--One EIR mitigation recommends a second lane for the eastbound I-80 on-ramp at San Pablo Avenue/John Muir Parkway. That on-ramp already has two lanes.

Response: This comment is similar to written, more detailed comment L 9.07, also provided by Chair McCoy. See response to comment L 9.07.

PC 16 Transportation and Circulation--Commissioner Hart--Has westbound Highway 4 traffic dumping onto I-80 been taken into account?

Response: This comment is similar to written, more detailed comment L 3.01, also provided by Commissioner Hart. See response to comment L 3.01.

PC 17 Transportation and Circulation--Chair McCoy--Traffic mitigation utilizing Tsushima Street will turn a local street into a thoroughfare through the neighborhood.

Response: The Tsushima Bridge was recently completed to provide access to the planned John Muir Parkway extension (see Figure 16.1). Also, Draft EIR Mitigation 16-2-1, which would facilitate access to Tsushima Street, is currently planned by the City and is not specific to the proposed Hercules Bayfront Project.

PC 18 Transportation and Circulation--Chair McCoy--The ITC project and the Bayfront Project are intertwined, yet the Bayfront traffic analysis seems more focused on people living in the Bayfront Project than on the impact of ITC traffic.

Response: The primary subject of an EIR, per the CEQA Statute and Guidelines, is a project's potential impact on the environment. Therefore, the Hercules Bayfront Project Draft EIR includes an analysis of traffic impacts *resulting from* the proposed project. The Draft EIR also analyzes projected ITC project traffic as part of the Cumulative conditions analysis, with and without the proposed Hercules Bayfront Project. This methodology is

consistent with CEQA and local, regional, and state adopted procedures for traffic impact analysis.

- PC 19 Alternatives to the Proposed Project--Chair McCoy--The Reduced Development scenario (Alternative 19.3) discussion seems a little dismissive in concluding that this would be the environmentally superior alternative even though it would be less effective in attaining project objectives.

Response: The content and purpose of a CEQA discussion of alternatives are described at the beginning of Draft EIR chapter 19 (Alternatives to the Proposed Project). As discussed in the chapter, CEQA Guidelines section 15126.6(d) indicates that the EIR comparison of the impacts of the identified alternatives is intended to be less detailed than the discussion of the impacts of the proposed project. The alternatives are not analyzed at the same level of detail as the proposed project. After certification of the Final EIR, City decision-makers could decide to approve one of the EIR alternatives, or some combination of EIR alternatives, instead of the proposed project. During this decision-making process, the City would compare the potential environmental impacts of the proposed project and alternatives with their ability to meet the project objectives (see Draft EIR section 3.4--Project Objectives).

- PC 20 Alternatives to the Proposed Project--Chair McCoy--The size of the proposed project or of an alternative would not directly impact how many people come to the train station; the train station is a regional transit center.

Response: The size of the project would directly affect how many people use the ITC. One of the primary objectives of the proposed project is to develop a transit-oriented neighborhood that provides its residents, employees, and visitors various opportunities to use modes of travel besides the automobile. For example, Letter 7 (Greenbelt Alliance) in this Final EIR describes the symbiotic relationship between the Hercules Bayfront Project and the ITC project.

- PC 21 Transportation and Circulation--Chair McCoy--Railroad Avenue is now closed. Are there any plans to fix that portion between Hercules and Pinole to help ease traffic congestion?

Response: This comment is similar to written, more detailed comment L 3.03. See response to comment L 3.03.

2.3 RESPONSES TO WRITTEN COMMENTS RECEIVED DURING AND IMMEDIATELY AFTER THE DRAFT EIR PUBLIC REVIEW PERIOD

The following section includes copies of all letters and emails received during and immediately after the Draft EIR review period, each followed by a written response to each comment on the content and adequacy of the Draft EIR or on a substantive environmental point. The comments and responses are correlated by code numbers added to the right margin of each letter or email.



Making San Francisco Bay Better

RECEIVED
27711



L 1

February 15, 2011

Mr. Dennis Tagashira
Planning Director
City of Hercules
111 Civic Drive
Hercules, CA 94547

SUBJECT: Comments to the Draft Environmental Impact Report
for the Hercules Bayfront Project; SCH #2009112058
(BCDC File No. CC.HC.7410.1)

Dear Mr. Tagashira:

Thank you for the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the Hercules Bayfront Project, located at a site adjacent to San Pablo Bay in the City of Hercules, Contra Costa County. The project would involve the development of a 42.36-acre portion of the City of Hercules Waterfront District Master Plan (WDMP) area with a transit-oriented, mixed-use neighborhood that includes a variety of dwelling types and businesses, and an associated system of streets, other pedestrian interconnections, and public plazas. The project more specifically outlined in the DEIR includes an amendment to the City's General Plan Land Use Diagram, Zoning Designation, WDMP, and Development Agreement. The DEIR divides the project site into three development areas: (1) the Bowl area (also referred to as Crescent Heights), (2) the Bayfront Boulevard Mixed-Use area, and (3) the Village area. The proposed project build-out totals include a maximum of: 1,392 multi-family (non-flex) residential units (125 of which may be replaced with a 125-room hotel on Bayfront Boulevard); 115,000 square feet of office (non-flex) floor area; 90,000 square feet of office (non-flex) floor area; and 134,000 square feet of flex space which may be developed as residential office (including live/work), and/or retail space, of which no more than 67,000 square feet shall be permitted to be built as retail floor area.

Below are the staff's comments on the DEIR. Some of these comments may address specific BCDC issues that will need to be addressed either in the FEIR, a more project-specific DEIR or through the BCDC permitting process.

The Commission is a responsible agency for this project and will rely on the DEIR when it considers the project. Although the Commission itself has not reviewed the DEIR, the staff comments are based on the McAteer-Petris Act, the Commission's *San Francisco Bay Plan* (Bay Plan), the Commission's federally approved management program for the San Francisco Bay, and the federal Coastal Zone Management Act (CZMA).

Jurisdiction

The Commission's jurisdiction includes all tidal areas of the Bay up to the line of mean high tide (or in marshlands, the inland edge of marsh vegetation, up to five feet above mean sea level), all areas formerly subject to tidal action that have been filled since September 17, 1965, and a "shoreline band," which extends 100 feet inland from and parallel to the Bay shoreline.

L 1.01

Commission permits are required for construction of buildings, roadways, infrastructure and other improvements, changes in use, and dredging and dredged material disposal within its area of jurisdiction. To authorize a project, the Commission must be able to find the activities to be consistent with the McAteer-Petris Act and the policies and findings of the Bay Plan. In addition to any needed permits under its state authority, federal actions, permits, and grants that affect the Commission's jurisdiction are subject to review by the Commission, pursuant to the CZMA, for their consistency with the Commission's federally-approved management program for the Bay.

Based on the location of the project site, and as appropriately noted in the DEIR, a large portion of the project would occur within the Commission's jurisdiction and require Commission authorization. In order to fully evaluate the project's consistency with the Commission's laws and policies, staff will need to determine what components of the project fall within the Commission's Bay and shoreline band jurisdictions. The Commission will need a detailed site plan that depicts the Commission's Bay and shoreline band jurisdictions, describes the existing conditions and the proposed project, identifies areas where fill would be placed and removed, describes the proposed uses at the site, and clearly denote proposed public access areas and improvements.

Bay Fill

Section 66605 of the McAteer-Petris Act states, among other things, that further filling of the Bay should only be authorized if the fill is the minimum necessary to achieve the purpose of the fill and if the harmful effects associated with the fill are minimized. According to the Act, Bay fill is limited to water-oriented uses (such as ports, water-related industry, and water-oriented recreation and public assembly), minor fill for improving shoreline appearance, or public access.

L 1.02

It is unclear at this time, whether the Bayfront Project will involve any Bay fill. As part of the permitting process for this project, the City of Hercules will be required to quantify the total amount of fill proposed to be placed with the project and to assess the impacts associated with its placement, to ensure the placement is consistent with our laws and policies.

Public Access and Views

Section 66602 of the McAteer-Petris Act states that, "...existing public access to the shoreline and the waters of the San Francisco Bay is inadequate and that maximum feasible public access to the Bay, consistent with a proposed project, should be provided...." The Bay Plan policies on public access state that, "the public access improvements provided as a condition of any approval "should be consistent with the project and the physical environment...[and]...should be designed and built to encourage diverse Bay-related activities and movement to and along the shoreline...." The *Bay Plan* policies on Appearance, Design and Scenic Views further state that "all bayfront development should be designed to enhance the pleasure of the user or viewer of the Bay" and that "maximum efforts should be made to provide, enhance, or preserve views of the Bay and shoreline, especially from public areas, from the Bay itself, and from the opposite shore."

L 1.03

The DEIR states that public plazas are proposed within the Bayfront Boulevard Mixed-Use Area (Blocks D through J), along Bayfront Boulevard to provide access to the Intermodal Transit Center Bay Trail. It is unclear from the DEIR what the size of these plazas would be, what their function would provide (commercial plazas or parks), and whether additional public access trails or areas, including an extension of the Bay Trail through this area, would be provided as part of the project. In addition, the DEIR includes as a potential significant impact, possible impacts to Bay vistas as a result of the proposed layout and project structures and landscaping (Impact 4-1). The City should modify the project layout and roadway grid to ensure that Bay vistas are preserved from public right-of-ways and areas.

In its permit application, the City of Hercules will be required to more specifically quantify the total public access provided as part of the project and to assess its consistency with the Commission's laws and policies outlined above. The DEIR should include further analysis on how the project is designed to "provide, enhance, or preserve views of the Bay and shoreline" such as by providing viewing opportunities from public streets out to the Bay, from public plazas or open space areas, or elsewhere. The DEIR should indicate where, if any, view corridors are provided from the public street to the Bay.

L 1.04

The Commission has a Design Review Board (DRB) that provides recommendations to the Commission on a project's design issues. While the DRB has reviewed the Hercules Intermodal Transit Center project, it has not had the opportunity to review the Hercules Bayfront project. Therefore, the City should consider scheduling a meeting before the DRB to obtain design feedback, particularly if modification of the proposed project layout and roadway grid may be required to preserve Bay views or to incorporate additional public access areas.

L 1.05

Other Bay Plan Policies

The following are several other categories of issues that may be raised by the proposed project's DEIR that the Commission has addressed through its Bay Plan policies:

L 1.06

1. **Fish, Other Aquatic Organisms and Wildlife.** The policies in this section address the benefits of fish, other aquatic organisms and wildlife and the importance of protecting the Bay's subtidal habitats, native, threatened or endangered species and candidates for listing as endangered or threatened. The DEIR indicates that impacts to biological resources would be mitigated to less than significant levels with the incorporation of mitigation measures such as pre-construction surveys for special-status species, construction work windows, and the use of best management practices, in consultation with the U.S. Fish and Wildlife Service (USFWS), California Department of Fish and Game (CDFG) and the National Marine Fisheries Services (NMFS). The Commission generally relies on the advice of these agencies with respect to impacts on special-status species and requires the submittal of a final Biological Opinion to deem a permit application complete. The DEIR should sufficiently address how the construction and use of the proposed project would minimize impacts to special-status species and habitat in the Bay, including impacts from the placement of any Bay fill, creek restoration and shoreline protection.

2. **Water Quality.** The policies in this section address water quality and require Bay water pollution to be prevented to the greatest extent feasible. Policy 3 in particular requires new projects to be sited, designed, constructed and maintained to prevent or minimize the discharge of pollutants in the Bay by controlling pollutant sources at the project site, using appropriate construction materials, and applying best management practices. The DEIR should include measures to mitigate for water quality impacts. The Commission will rely on the advice of the RWQCB to determine whether the project is consistent with its water quality policies.

L 1.07

3. **Water Surface Area and Volume.** Policy 1 in this section states that the surface area of the Bay and the total volume of water should be kept as large as possible and that filling that reduces area and water volume of the Bay should be allowed only for purposes providing substantial public benefits and only if there is no reasonable alternative. The DEIR should discuss whether any filling is proposed as part of the project and how the proposed project would maintain or improve water circulation in the Bay, with particular attention to the proposal to widen and restore Refugio Creek.

L 1.08

4. **Tidal Marshes and Tidal Flats, Subtidal Areas and Mitigation.** Policy 1 of the Tidal Marshes and Tidal Flats section states, "tidal marshes and tidal flats should be conserved to the fullest possible extent." Policy 2 of the Subtidal Areas section states, "subtidal areas that are scarce in the Bay or have an abundance and diversity of fish, other aquatic organisms and wildlife (e.g., eelgrass beds, sandy deep water or underwater pinnacles) should be conserved. Filling, changes in use, and dredging projects in these areas should therefore be allowed only if: (a) there is no feasible alternative; and (b) the project provides substantial public benefits." If adverse impacts to Bay natural resources, such as to water surface area, volume, or circulation, fish, other aquatic organisms, and wildlife habitat, or subtidal areas, tidal marshes or tidal flats, cannot be avoided, Policy 1 of the Mitigation section of the Bay Plan states, "they should be minimized to the greatest extent practicable [and] measures to compensate for unavoidable adverse impacts to the natural resources of the Bay should be required."

L 1.09

The DEIR indicates that construction activities within the Refugio Creek and North Channel corridors would result in disturbance and loss of sensitive marsh habitats in these areas and to jurisdictional wetlands and other waters resulting from filling. The DEIR should include details of the size and kind of marsh habitat that may be impacted, a discussion of how these areas will be conserved, and describe how impacts to these areas would be minimized to the greatest extent practicable. If unavoidable adverse impacts would result, the City will need to mitigate for these impacts, as required by our Bay Plan policies.

5. **Safety of Fills and Sea Level Rise.** Policy 4 in this section states that structures on fill or near the shoreline should have adequate flood protection including consideration of future relative sea level rise as determined by competent engineers. The policy states, "as a general rule, structures on fill or near the shoreline should be above the wave runoff level or sufficiently set back from the edge of the shore so that the structure is not subject to dynamic wave energy. In all cases, the bottom floor level of structures should be above the highest estimated tide elevation. Exceptions to the general height rule may be made for developments specifically designed to tolerate periodic flooding."

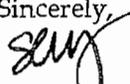
L 1.10

In order to approve the project, the Commission will need to find that the public access and Bay fill project elements are designed with adequate flood protection including consideration of future sea level rise. The DEIR should explain how these project elements are designed to sufficiently address sea level rise and flooding during the life of the project (including storm surges). This discussion could include an analysis of how the structures could be raised, or designed to withstand flooding, or set at an elevation to accommodate sea level rise. If the structures cannot be constructed at an elevation high enough to withstand periodic flooding, the City should explain why this cannot be done at this time, and how the structures would be adapted in the future.

Mr. Dennis Tagashira
City of Hercules
Comments to Hercules Bayfront Project DEIR
February 15, 2011
Page 5

L 1

Again, we thank you for providing staff with the opportunity to review the DEIR on the Hercules Bayfront project. Above are our comments at this time and based on the information provided to us in the DEIR. As the project becomes more developed, additional Bay Plan policies may be applicable and should be considered. We encourage you to meet with us as soon as you ready to discuss future permitting requirements. Please feel free to contact me at (415) 352-3616, or email me at mingy@bcdd.ca.gov if you have any questions regarding this letter or the Commission's policies and permitting process.

Sincerely,

MING YEUNG
Coastal Program Analyst

MY/mm

cc: State Clearinghouse

L 1 Ming Yeung, Coastal Program Analyst, San Francisco Bay Conservation and Development Commission (BCDC); February 15, 2011 (5 pages)

- L 1.01 Land Use and Planning--Based on the location of the project, and as appropriately noted in the Draft EIR, a large portion of the project would occur within BCDC jurisdiction and require BCDC authorization. The comment describes standard permit requirements and notes that BCDC will need a detailed site plan and other project details in order to determine BCDC jurisdictional boundaries and project consistency with BCDC laws and policies.

Response: Comment acknowledged. Those portions of the Hercules Bayfront Project subject to BCDC jurisdiction are expected to comprise (in whole or in part) components shared with the ITC project (see Draft EIR section 3.6--Shared Facilities), for example, the Bay Trail extension and Waterfront Promenade, Creekside Trail/Park/Plaza, and Refugio Creek restoration. Draft EIR subsections 3.8.3 (Other Anticipated Jurisdictional Agency Approvals), 12.1.6.c (Regional Plans--BCDC's San Francisco Bay Plan), and 17.3.5 (BCDC's San Francisco Bay Plan) acknowledge BCDC's jurisdiction over portions of the project.

As part of the ITC project (with which the facilities identified above are shared), the City has been coordinating with BCDC in developing the overall site plan and has met with the BCDC Design Review Board and Engineering Criteria Review Board. The City is developing a permit application for BCDC and will coordinate with BCDC through this permitting process to ensure that all necessary BCDC-required elements are included. The permit application will include a detailed site plan, including all project elements within the BCDC jurisdictional boundaries.

- L 1.02 Hydrology and Water Quality--As part of the BCDC permitting process, the project will be required to ensure that any placement of fill in the Bay is consistent with BCDC laws and policies.

Response: Comment acknowledged. See response to comment L 1.01.

- L 1.03 Project Description and Aesthetics--The size and function of the project's proposed public plazas, as well as whether additional public trails would be provided, is unclear. The project should modify its layout and roadway grid to mitigate Draft EIR Impact 4-1 (Project Impacts on Scenic Vistas).

Response: Draft EIR chapter 4 (Aesthetics) describes the visual and public access benefits (including public scenic vistas) and visual and public access impacts (aided by seven "before and after" visual simulations) resulting from the proposed project. Subsection 4.3.2 (Proposed Project-Pertinent Design Characteristics) describes the location and purpose of the public plazas, including "to provide access to the planned adjacent Bayfront Promenade/Bay Trail extension," which is a shared facility with the ITC project. Those project components under BCDC jurisdiction will be coordinated between the City and BCDC as part of the permitting process described in response to comment L 1.01.

- L 1.04 Aesthetics--The Draft EIR should include further analysis on how the project will "provide, enhance, or preserve views of the Bay and shoreline."

Response: This issue is evaluated in Draft EIR chapter 4 (Aesthetics) to the corresponding level of detail provided by the project plans, pursuant to CEQA Guidelines section 15146 (Degree of Specificity).

- L 1.05 Aesthetics--The BCDC Design Review Board (DRB) has not yet reviewed the Hercules Bayfront Project, and the City should consider scheduling a meeting before the DRB.

Response: On August 8, 2008, representatives of both the City (Lisa Hammon, then Assistant City Manager) and the applicant/developer (Jim Anderson and Ethan Sischo of Hercules Bayfront, LLC) met with Will Travis, the Executive Director of BCDC, to discuss the Bayfront master plan and anticipated BCDC permitting requirements. Moving forward, it should be the primary responsibility of the applicant/developer (not the City) to present the project to the BCDC Design Review Board.

- L 1.06 Biological Resources--BCDC generally relies on the advice of jurisdictional agencies (e.g., USFWS, CDFG, NMFS) with respect to impacts on special-status species and requires the submittal of a final Biological Opinion to deem a BCDC permit application complete. The Draft EIR should sufficiently address how the project would minimize impacts to special-status species and habitat in the Bay.

Response: These issues are addressed in Draft EIR chapter 6 (Biological Resources), including explanations of USFWS, CDFG, and NMFS jurisdiction over aspects of the proposed project.

- L 1.07 Hydrology and Water Quality--The Draft EIR should include measures to mitigate water quality impacts.

Response: Hydrology and water quality, including measures to mitigate identified impacts, are discussed in Draft EIR chapters 11 (Hydrology and Water Quality) and 6 (Biological Resources).

- L 1.08 Hydrology and Water Quality--The Draft EIR should discuss whether any Bay filling is proposed as part of the project and how the project would maintain or improve water circulation in the Bay, with particular attention to the proposal to widen and restore Refugio Creek.

Response: The issues are discussed in Draft EIR chapters 11 (Hydrology and Water Quality) and 6 (Biological Resources). As a shared facility with the ITC project, the Refugio Creek restoration would open the channel corridor and create flatter and lower creek banks; this would provide for increased tidal influence and diversify vegetation to include a mosaic of low- and high-tide marsh as well as riparian habitat. It is expected that increasing the wetland vegetation and tidal marsh areas would improve nutrient and sediment retention. Widening the channel would improve flows out to San Pablo Bay as well as tidal influence upstream.

- L 1.09 Biological Resources--The Draft EIR should include details regarding the size and kind of marsh habitat that may be impacted by the project, how these areas will be conserved, and how impacts to these areas will be mitigated.

Response: This issue is discussed in detail in Draft EIR chapter 6 (Biological Resources), especially in Table 6.2, Impact/Mitigation 6-6 (Potential Loss of Sensitive Marsh Habitat Communities), and Impact/Mitigation 6-7 (Project-Related Potential Loss and Modifications to Jurisdictional Wetlands and Other Waters). As concluded in the mitigations, these impacts would be reduced to less-than-significant levels. Also, wetland features are mapped on Draft EIR Figures 6.1 through 6.5.

While researching this response, the EIR authors discovered that some wetlands information in Draft EIR chapter 6 was incorrect. The information has been corrected to indicate that all 0.24 acres of wetlands identified on the Hercules Bayfront Project site are actually on adjacent property as part of the facilities shared between the ITC project and Bayfront Project. No wetlands exist on the Hercules Bayfront Project site itself. Draft EIR Figures 6.2 through 6.5 already indicated this condition, but inadvertently the previous text was not revised to match the updated figures. Chapter 6 has been revised, and the revisions are included in section 3.3 (Draft EIR Revisions) of this Final EIR. The revisions only minimally change the Draft EIR text of Impact/Mitigation 6-7 (Project-Related Potential Loss and Modifications to Jurisdictional Wetlands and Other Waters) because the impact and mitigation already addressed biological impacts on shared facilities sites.

- L 1.10 Hydrology and Water Quality, Climate Change/Sea Level Rise--The Draft EIR should explain how public access and Bay fill project components are designed to sufficiently address flooding and sea level rise.

Response: Flooding and sea level rise are discussed in Draft EIR chapter 7 (Climate Change, see especially Impact/Mitigation 7-1--Sea Level Rise Impacts on Project Development) and chapter 11 (Hydrology and Water Quality, see especially Impacts/Mitigations 11-4 and 11-5--Refugio Creek Flooding Impacts).

From: Ian Peterson [<mailto:ipeterson@baaqmd.gov>]
Sent: Thursday, February 24, 2011 10:26 AM
To: Robert Reber; Rochelle Samuels
Subject: Hercules Bayfront Project

To Whom it May Concern,

I understand Mr. Tagashira is out of the office and if needed have been directed to contact other city staff. I am a planner at the Bay Area Air District and received a notice regarding the Draft Environmental Impact Report prepared for the Bayfront Project. I have been assigned to review the document and have a couple of clarifying questions. In specific, I understand the City identified significant air quality impacts. To be some of assistance, I would appreciate having a copy of the modeling results from that analysis and a better understanding of how these impacts are being addressed. If you, other staff, or the consultants who prepared the document can assist, it would be greatly appreciated.

L 2.01

Thank you in advance.

~

Ian Peterson
Bay Area Air Quality Management District | Environmental Planner
939 Ellis Street | San Francisco, CA 94109
Office: 415.749.4783
ipeterson@baaqmd.gov | www.baaqmd.gov

L 2 Ian Peterson, Environmental Planner, Bay Area Air Quality Management District (BAAQMD); February 24, 2011 (1 page)

L 2.01 Air Quality--The commenter requested the Draft EIR air quality modeling data.

Response: The EIR consultant provided the requested information and subsequently contacted the commenter. The commenter had reviewed the data and had no further comment on the Draft EIR.

March 1, 2011

Mr. Robert Reber
City of Hercules
111 Civic Drive
Hercules, CA 94547

Re: Bayfront Project EIR

Dear Robert,

After reading the Bayfront EIR, I have concerns regarding several issues which are directly related to the EIR and some which were mentioned but need to be addressed outside the EIR.

My first major concern is the impact the increased traffic from the project will have on not only on local streets such as John Muir Parkway and Sycamore but also on I80 and Hwy. 4.

L 3.01

The EIR addresses many of the significant impacts to I 80 at the Willow Avenue entrance and to both I 80 and SR 4 at the John Muir entrance. However, I question the premise that trying to get another lane of traffic from John Muir to I 80 will help traffic. I feel taking three lanes of traffic, should a new lane be built, and merging it into one lane will only make traffic worse. The west bound traffic is already substantially backed up during the peak commute hours. What are the possibilities CalTrans will build more entrance lanes at this point onto I80?

The EIR mentions a new on ramp at Willow. When will that be completed? The consultant mentioned that it's on the CalTrans project list and should be built, but what if it's not built, then what will be the result due to the impact of the increased traffic?

Traffic is a major issue given that fact there are only two major thorough fares through Hercules in the area of the project. It is mentioned that the General Plan for Hercules does not want to impact neighborhoods. But, this is exactly what is going to happen if John Muir and Sycamore are heavily used. People will take Railroad to Santa Fe then to Hercules Ave and down San Pablo to catch the freeway at Pinole Valley. This "shortcut" will significantly impact the neighborhoods along those streets as well as increase traffic on San Pablo in possibly both directions.

L 3.02

What are the possibilities that Railroad Avenue could be reopened down by the railroad tracks, after much repair and upgrade to that small section of roadway. Then people could take that to Tennant and then up to the freeway. While Pinole may have some issues with this alternative, it would help alleviate traffic on San Pablo, especially at times when there are accidents on I80.

L 3.03

Sycamore will be further impacted with people going through town to get onto Hwy 4 at the Sycamore entrance. This usage will impact individuals going down Refugio, Redwood and Lupine.

L 3.04

L 3

Another statement in the EIR states that there will be no impact to Hwy 4 facilities. I disagree with that premise given the increase in traffic over just the last few years. The impact is in both directions at peak usage hours. This impact is going to increase, in my opinion, given the increased number of jobs in the east bound direction of Hwy 4 and the increased number of individuals living in West County and commuting east bound to their jobs.

L 3.05

The EIR addresses the impact from the development of new housing to our local schools. While the EIR states that under CEQA, the cumulative impacts on school services would be less than significant; this issue needs to be addressed at the local level with the school district and others involved in the building of new schools. The impact of this development and others that are planned will have a significant impact on our already overcrowded schools. Unless something is done to address this problem, many individuals will choose not to move here if they can not educate their children in the public school system.

L 3.06

There are several things addressed in the EIR which may not have a significant impact on the environment under the guidelines of CEQA, however, they will have a significant impact on the services provided by the City to the citizens of Hercules. These items include the services provided by the police and fire departments along with the Parks and Rec Department.

L 3.07

The EIR addresses the fact that there will be an increase in personnel for the police services which means a continuing cost to the City for the new personnel. Will the new development bring in the necessary funds to sustain the increased costs for these personnel? What about the possibility of building a new substation to increase the security of our new residents?

The Fire Department will supposedly have adequate response time given the location of the fire stations. However, what will the impact be if traffic is backed up during peak times? Are there any plans to increase fire services such as a new station located closer to the new projects by the Bayfront? If so, how will this be funded?

L 3.08

The increase in services for Parks and Recreation are also addressed. There will be impact fees collected to help pay for the new parks. But, once again, there will need to be an increase in City staff to maintain the new facilities. Will the impact fees cover the costs for increased personnel?

L 3.09

While the EIR addresses things under the guidance of CEQA, I'm very concerned about the impacts that aren't addressed fully due to the fact they are more local or social issues. These also need to be addressed outside the EIR process.

Thank you for taking the time to address my concerns within the scope of the EIR and those which are outside the scope but will have an impact on the City.

Sincerely,

Cletia Hart

L 3 Cletia Hart, City of Hercules Planning Commission; March 1, 2011 (2 pages)

- L 3.01 Transportation and Circulation--The commenter questions whether adding another traffic lane from John Muir Parkway to I-80 will improve traffic conditions. Taking three lanes of traffic, should a new lane be built, and merging it into one lane will only make traffic worse. What are the possibilities that Caltrans will build more entrance lanes at this point onto I-80? When will the new ramp at Willow Avenue be completed; what if it is not built?

Response: Draft EIR Mitigation 16-2-3 recommends the addition of a second right-turn lane from northbound San Pablo Avenue to eastbound John Muir Parkway, the widening of John Muir Parkway from three to four lanes from San Pablo Avenue to the SR 4/I-80 ramps, and the widening of the I-80 westbound on-ramp from one lane to two lanes (see Figure 16.12). This mitigation would result in three lanes merging into two lanes, not three lanes merging into one lane as stated in the comment. The same mitigation is already identified in the City-certified New Town Center Project EIR. The mitigation is intended to relieve traffic congestion on the local street system; it is not expected to improve freeway operations on either SR 4 or I-80. Potential mitigation for impacts on freeway operations are described in Draft EIR Mitigation 16-1 and Mitigation 16-3.

Regarding the improvements to the Willow Avenue ramps at I-80, these are under construction and will be completed before any of the Bayfront Project would become operational. Construction updates on the I-80/Willow improvements are available at www.dot.ca.gov/dist4/80ebhov/.

As a separate project, and as stated in the Draft EIR (page 16-3), the City is studying the relocation of the Willow Avenue on- and off-ramps to the Willow overcrossing of SR 4. Caltrans has prepared a Project Study Report (PSR) for relocating the ramps, which typically indicates Caltrans' intent to approve a project. However, this improvement would primarily benefit drivers to and from the areas east of the I-80 corridor. Whether this improvement is constructed would therefore have minimal effect on the intersection of San Pablo Avenue/John Muir Parkway.

- L 3.02 Transportation and Circulation--Hercules neighborhoods will be impacted if John Muir Parkway and Sycamore Avenue are heavily used. People will take shortcuts through neighborhoods to reach I-80 at Pinole Valley Road.

Response: The Hercules Bayfront Project would be located especially to utilize the proposed John Muir Parkway extension to access I-80 and SR 4. The route would be direct and, with the exception of its intersection with San Pablo Avenue, would operate at acceptable levels (see Draft EIR section 16.3). The time required to travel south through Hercules neighborhoods, into Pinole, and onto the I-80 (or vice versa) would be longer than using the direct access (John Muir Parkway) to the freeway. The City-approved traffic distribution modeling for the project reflects this situation. Project-related traffic effects on neighborhood streets are expected to be minimal. Consistent with the Hercules Bayfront Project EIR traffic analysis, the ITC EIR/EIS traffic analysis reached a similar conclusion, as described below.

The Intermodal Transit Center (ITC) EIR/EIS, whose transit center and parking facilities would be located within the Hercules Bayfront Project area, analyzed impacts at the two intersections identified by the City of Pinole. The ITC EIR/EIS (section 4.1--Traffic and Transportation Systems) analyzed a Future Baseline Scenario (i.e., not including the ITC project), which incorporated traffic expected to be generated by the proposed Hercules Bayfront Project (the ITC and Hercules Bayfront traffic analyses were coordinated between their respective traffic engineering consultants), "background growth that is likely to occur in the vicinity of the project," and "the traffic expected to be generated by other projects approved by the City or reasonably expected to occur prior to construction of the proposed [ITC] project." As required by the National Environmental Policy Act (NEPA), this particular scenario in the ITC EIR/EIS assumes that the Hercules Bayfront Project would be in operation, but the ITC project would not; this NEPA scenario is analogous to a "No Project" alternative under CEQA.

Under the ITC EIR/EIS Future Baseline scenario (including the proposed Hercules Bayfront Project), the San Pablo Avenue/Pinole Valley Road intersection would operate at Level of Service (LOS) A in the AM peak hour and LOS A in the PM peak hour. Under the same scenario, the San Pablo Avenue/Tennent Avenue intersection would operate at LOS B in the AM peak hour and LOS C in the PM peak hour. Based on Contra Costa Transportation Authority (CCTA) operating criteria, all of these levels of service are considered acceptable, and no mitigation would be required at the two subject intersections.

- L 3.03 Transportation and Circulation--Could Railroad Avenue be re-opened by the railroad tracks? Then drivers could access I-80 via Tennent Avenue through the City of Pinole.

Response: Consistent with the scope of work coordinated between City staff and the EIR traffic consultant, the re-opening of Railroad Avenue was not considered in the Draft EIR traffic analysis. Even if the roadway were re-opened, the travel time required from the Bayfront Project to I-80 via Pinole Valley Road (and vice versa) would still be longer than using the direct access via John Muir Parkway.

- L 3.04 Transportation and Circulation--Sycamore Avenue will be impacted by traffic going to Highway 4 via the Sycamore entrance.

Response: The most direct route between the project and SR 4 would be via John Muir Parkway, not Sycamore Avenue. Once the John Muir Parkway extension and Bayfront Project are built, it is expected that some residents currently living east of Sycamore will use John Muir Parkway, rather than Sycamore, to access I-80 and SR 4. This potential is reflected in the City-approved traffic distribution modeling.

- L 3.05 Transportation and Circulation--The commenter disagrees (with the Draft EIR finding) that there will be no impact on Highway 4 facilities.

Response: The City-approved cumulative traffic forecasts developed for the Bayfront Project Draft EIR take into consideration Hercules General Plan buildout through 2035, and include traffic associated with regional growth throughout Costa Contra County and the adjacent counties. The land use forecasts are consistent with regional projections from the Association of Bay Area Governments (ABAG) and the Contra

Costa Transportation Authority (CCTA). Even with the forecasted cumulative growth, overall traffic operations on SR 4 were calculated to be at acceptable levels (LOS E or less) through 2035.

A detailed description of the cumulative traffic modeling assumptions is included in Draft EIR subsection 16.1.4.

- L 3.06 Public Services and Utilities--Schools--While the EIR states that, under CEQA, the cumulative impacts on school services would be less-than-significant, this issue needs to be addressed at the local level with the school district and others involved in the building of schools.

Response: See response to comment PC 2.

- L 3.07 Public Services and Utilities--Police Services--Will the new development bring in the necessary funds to sustain the increased costs for police personnel? Could a new substation be built to increase security?

Response: As discussed in Draft EIR section 15.2 (Police Services): (1) the Hercules Police Department did not identify a need for a new police substation solely as a result of the proposed project; (2) the project would be assessed a mandatory Development Impact Fee (DIF) for police facilities; and (3) funding for additional Police Department personnel would be addressed through the City's General Fund process (outside the CEQA process). The adequacy of the City's adopted DIF is outside the scope of the EIR. Also see response to comment L 9.19.

- L 3.08 Public Services and Utilities--Fire Protection and Emergency Medical Services--What will the impact be to the Fire Department if traffic is backed up? Are there plans to increase fire protection services (e.g., new station) closer to new projects by the Bayfront, and how will new facilities be funded?

Response: Emergency response during times of traffic congestion is an existing condition encountered by both the Fire District and the Police Department, not a new issue particular to the proposed project. Emergency vehicles are equipped with sirens to disperse traffic, and emergency personnel are experienced at driving in such conditions. Also, note that: (1) the Hercules Police Department concluded that emergency response would be improved under the project due to the extension of roadway patterns and consequent improved access (Draft EIR page 15-6--Police Emergency Response, Evacuation, and Access Impacts); and (2) the Rodeo-Hercules Fire District (RHFD) concluded that adequate emergency access to the project site would require an emergency vehicle access (EVA) off Linus Pauling Drive, which the project had already proposed (Draft EIR page 15-9--Fire Protection Emergency Response, Evacuation, and Access Impacts).

As discussed in Draft EIR section 15.3 (Fire Protection and Emergency Medical Services), the project effect on fire protection/EMS demands does not represent a significant environmental impact under CEQA because the District's funding process is designed to address personnel needs and the City's Development Impact Fee (DIF) is formulated to address facility needs. The adequacy of the City's adopted DIF is outside the scope of the EIR.

L 3.09 Public Services and Utilities--Parks and Recreation--Will impact fees cover the costs for additional personnel?

Response: See Draft EIR section 15.4 (Parks and Recreation). Similar to the Police Department and Fire District information (see responses to comments 3.07 and 3.08), the mandatory DIF on new development is assessed to cover the cost of increased demand for parks and recreational facilities, while the cost for additional personnel is funded through the City's General Fund process. The adequacy of the City's adopted DIF is outside the scope of the EIR.

TO: Robert Reber, City Planner (rreber@ci.hercules.ca.us)
Dennis Tagashira, Planning Director (dtagashira@ci.hercules.ca.us)

RE: Comments on Draft EIR for Hercules Bayfront Project

As residents of the Bayside community of Hercules, we would like to submit comments on the draft EIR for the Hercules Bayfront Project.

First of all, we applaud the efforts to increase access to public transportation for Hercules residents by bringing rail, ferry and bus services to the Bayfront. Rising gas prices, air pollution and highway congestion are all impelling reasons to encourage the use of public transit.

However, we are **strongly** opposed to the aspects of the project related to extensive retail and residential development listed under “maximum development totals” on Page 2-2 of the draft. We believe that residential and retail development of these proportions would have a devastating impact, not only on the scenic and peaceful natural marsh and bay habitats in the area, but also to the surrounding Bayside, Promenade and Baywood communities and the three main arteries leading down to the Bayfront (John Muir Parkway, Sycamore Avenue and Hercules Avenue) and would result in:

L 4.01

- Increased pedestrian and auto traffic
- Noise
- Pollution and litter
- Loss of open space and obstruction of bay and shoreline views, just to name a few.

After review of Section 19.1 Identified Alternatives, we would be more supportive of Alternative 19.3 Reduced Development Scenario (Page 19-3), which suggests a 20-30% reduction of residential and retail plans. We also encourage the City of Hercules to seek an even more scaled-down plan than identified in this scenario.

L 4.02

Please help us to preserve the serenity and beauty of our City’s waterfront by encouraging a drastic reduction in the proposed residential and retail plans for the Bayfront Project.

Sincerely,

Al and Sandra Serrano
2141 Drake Lane
Hercules, CA 94547
absfour-all@yahoo.com

L 4 Al and Sandra Serrano; undated--received March 1, 2011 (1 page)

- L 4.01 General EIR Comment--The proposed project would have a devastating impact on natural marsh and bay habitats, nearby neighborhoods, and the main roadways in the area, and would result in increased pedestrian and auto traffic, noise, pollution and litter, loss of open space, and obstruction of bay and shoreline views.

Response: The Hercules Bayfront Project proposes amendments to the adopted Waterfront District Master Plan (WDMP). Draft EIR section 3.3 (Project Background) and subsection 3.5.4 (Proposed Project General Plan, Zoning, and WDMP Amendments) describe the adopted WDMP and proposed amendments, respectively. The environmental issues raised in the comment are addressed in Draft EIR chapters 4 (Aesthetics), 5 (Air Quality), 6 (Biological Resources), 12 (Land Use and Planning), 13 (Noise), 15 (Public Services and Utilities--Parks and Recreation), and 16 (Transportation and Circulation).

- L 4.02 Alternatives to the Proposed Project--Draft EIR Alternative 19.3 (Reduced Development Scenario) is preferred over the proposed project. The City should seek an even more scaled-down plan.

Response: As noted in response to comment L 4.01, the Hercules Bayfront Project proposes amendments to the already adopted WDMP. Draft EIR Alternative 19.2 (in chapter 19) evaluates a scenario under which no further amendments would be made to the adopted WDMP. Alternative 19.3 evaluates a Reduced Development Scenario that includes a different mix of land uses compared to the proposed project. Both of these alternatives would result in less overall development than the proposed project. After the Final EIR is certified, City decision-makers could approve one or a combination of project alternatives.

From: JNaidasBibal [mailto:jixbibal@comcast.net]
Sent: Monday, March 07, 2011 12:21 PM
To: Robert Reber
Cc: Rochelle Samuels
Subject: COMMENTS: Hercules Bayfront Project draft EIR

1. What other aspects would be considered to effectively minimize the changes in the scenic and bay visual impacts, considering the increased in the growth of the area? **L 5.01**
2. Would there be a significant change/damage/improvement to the biology of the project site, considering the large scope of this development with shared facilities? **L 5.02**
3. With the idea of dredging Refugio Creek to mitigate the long-term flooding impact, is there a "plan" to re-orient the water pathway? **L 5.03**
4. What are the significant cumulative impacts with regards to roadways, as well as, increased transportation and human traffic? Would these degenerate the serenity of the waterfront in the long run? **L 5.04**

L 5 Jose Bibal, City of Hercules Planning Commission; March 7, 2011 (1 page)

- L 5.01 Aesthetics--What other aspects could effectively minimize scenic and bay visual impacts, considering the increased growth of the area?

Response: Visual impacts are evaluated in Draft EIR chapter 4 (Aesthetics), including mitigations to reduce visual impacts. CEQA requires potential project impacts to be evaluated against *existing* conditions. Due primarily to the project site's existing undeveloped condition near natural resources (e.g., San Pablo Bay, Hercules Point, Refugio Creek), project impacts on scenic vistas (Impact 4-1) and project impacts on the existing visual character of the site and its surroundings (Impact 4-2) are considered significant and unavoidable.

- L 5.02 Biological Resources--Would there be significant change/damage/improvement to the biology of the project site?

Response: This issue is discussed in Draft EIR chapter 6 (Biological Resources). All identified significant impacts on biological resources could be reduced to less-than-significant levels through implementation of Mitigations 6-1 through 6-7.

- L 5.03 Hydrology and Water Quality--Is there a plan to re-orient the water pathway of Refugio Creek?

Response: Yes. The proposed plan to realign a segment of Refugio Creek is described, among several places in the Draft EIR, in subsection 3.5.6 (Proposed Project Storm Drainage Components) and section 3.6 (Shared Facilities--Refugio Creek Restoration and North Channel Improvements).

- L 5.04 Transportation and Circulation--What would be the significant cumulative transportation and "human traffic" impacts?

Response: These issues are discussed in Draft EIR chapter 16 (Transportation and Circulation), particularly section 16.3 (Impacts and Mitigation Measures). They are also summarized in Table 2.1 (Summary of Impacts and Mitigation Measures).

From: Mike Bowermaster [mailto:mkbower@yahoo.com]
Sent: Monday, March 07, 2011 3:49 PM
To: Robert Reber
Subject: Bayfront EIR Draft Comments

Dear Robert:

Here are my comments, and thank you for your work and extensive efforts during this busy time in Hercules.

Regards, Mike

Big picture, I would like to emphasize the importance of the Bayfront and ITC project. This will be a great transit-oriented, smart-growth, pedestrian friendly, mixed-use project that will be a shining example of unique urban planning. It holds the potential to be a fine example of progressive and smart urban planning for not only the Bay Area, but also the state and the broader nation as a whole. It is something every citizen in Hercules can be proud of.

L 6.01

This EIR gives history on how Hercules' zoning and regulatory framework calls for such a transit-oriented, mixed-use, pedestrian scaled environment. Page 3-6 (3.3.2) shows that this goes as far back as 1995, with major milestones at 1998, 2000, and 2008.

Page 2-12 (Mitigation 5-2)
Long-Term Regional Emissions Increases

L 6.02

1. "...further encourage alternative modes of transportation:
Support/coordinate ridesharing, including preferential parking for car or van pools."

Perhaps consider Electric Vehicle (EV) charging ports at preferred parking locations. With the Nissan Leaf, Chevy Volt, and Toyota Plug-In Prius (available early 2012) readily available to consumers, now is the time to build the infrastructure to support EVs. A multi-modal transit hub would be an ideal location for charging EVs. EVs require long charging times, and commuters leaving their cars for a work day allows the EV enough time to recharge by the time the commuter returns.

Page 2-58 (Impact 13-2)
Potential Exposure of Project Development to Interior Noise Levels Exceeding Standards

L 6.03

"...proposed Hercules Bayfront project Blocks B,D,E,G,K,L& M would have facades closest to railroad tracks, approximately 100 to 130 feet away. [...] All these blocks propose residential units..."

I would like to reinforce the needs stated in the mitigation; building sound insulation, sound-rated windows and doors, etc. With residential units right next to tracks with massive rumbling freight trains, it is important to build to a much more rigorous standard of "Lexus-like" quiet sound insulation for bedroom interiors.

L 6

Pages 2-62 -> 2-68
Transportation and Circulation
16-1, 16-2, 16-3 (Mitigation)

L 6.04

Traffic for a mixed-use, pedestrian focused, transit-oriented project must be looked at from a big scale point of view. This "New Urbanism" style of urban planning is designed to ~discourage~ automobile use and encourage alternative modes of travel (walking, biking, trains, ferries, etc). by gathering all uses and services with-in easy commute distance of a transit hub, a downtown, and dense residential.

Sidenote: The transit loop circling around block K is an important part of the block layout and street design, for it keeps buses and automobile commuters away from the existing residential neighborhoods.

Pages 3-17 & 3-19 (Tables 3.2 & 3.3)

L 6.05

I like that the mix of office & retail has gone up slightly. Hercules is in need of more amenities and services, not just more stand-alone residential. This will also help to reduce traffic for residents will not have to find these services (and therefore drive) outside of Hercules.

Pages 3-21 & 3-22

3.5.3 Proposed Project Development Program by Area and Block

L 6.06

Block D - possible 125 room hotel
Block J - potential civic or conference space

This variety of uses these building types bring is very important to Hercules. As mentioned above, Hercules is in need of more amenities and services, not just more stand-alone residential. This will also help to reduce traffic for residents will not have to find these services (and therefore drive) outside of Hercules. For these very same reasons (of reducing traffic), it makes sense to build a hotel, civic, or conference space adjacent to a multi-modal transit hub.

Pages 3-23 -> 3-25

3.5.4 Proposed Project General Plan, Zoning, and WDMP Amendments
Allowable building heights

L 6.07

Blocks F, H, & J are to be 2-4 stories, but are directly next to existing houses that are only 2 story. What if the 4th floor of these blocks could only be allowed 50% of the floor's area? This would allow for tall towers, domes, altannas, penthouses, etc, but would step the mass down to more match the existing neighbors. The "Palace of Fine Arts" style rendering of block J at the community update meeting last year did this sort of stepping down.

"...revised block shape and surrounding local street configuration."

L 6.08

I would like to call attention to a change in logic brought by the new street layout. In the masterplan last shown in the 2008 Initiative (page 4-3) Bayfront Blvd. and Sycamore Ave. continued directly up into the Bowl (Crescent Heights). Even in the 2001 WDMP (page 2), Main Street continued directly up into the Bowl. Now they all deliberately stop at RR Avenue. I assume this is to make the "Heights" more exclusive by interrupting the street grid of thru-traffic. The hotel (Block D) makes sense as a terminus for Bayfront

L 6

Blvd, but Main Street especially now has a silly little jog in it (see figure 4.3 for photo without the jog).

3.5.5

Tandem with this, "Edge Street I" next to North Channel (Parcel C) is no longer a street, just a pedestrian path only. It seems Linus Palling will continue and meet John Muir at an arbitrary location. It would be nice for shuttle vans from the hotel (Block D) to have a more direct route to Bio Rad for example. The 2008 Initiative (page 4-3) showed a more direct connection from the Transit Village up to Bio Rad (near block R). It would be good to adjust to the change in topography of the adjacent Bio Rad parcel, to betting integrate the Transit Village street grid to thru-traffic.

L 6.09

Sidenote: The transit loop circling around Block K is an important part of the block layout and street design, for it keeps buses and automobile commuters away from the existing residential neighborhoods.

Page 19-1

Alternatives: No Project, Existing Conditions

L 6.10

California's population keeps rising (being a desirable place to live), so smart planning must be done to accommodate that growth. The existing site is a brownfield, the project will be essentially "recycling" the land, and has won numerous awards to this effect. The project location is one of the best ways to handle California's growth being transit-oriented, mixed-use, and designed to discourage automobile use. If this project were to not be built here, growth would have to be accommodated elsewhere in the state, with a significantly bigger negative impact on the environment.

L 6 Mike Bowermaster, City of Hercules Planning Commission; March 7, 2011 (3 pages)

- L 6.01 Project Description--The Bayfront project will be a great transit-oriented, smart-growth, pedestrian friendly, mixed-use project that will be a shining example of unique urban planning. The Draft EIR describes the Hercules zoning and regulatory framework that calls for such a transit-oriented, mixed-use, pedestrian-scaled environment (Draft EIR subsection 3.3.2).

Response: Draft EIR section 3.3 (Project Background) describes the plans adopted over time by the City of Hercules to identify the Hercules Waterfront District as a location for higher density, mixed-use, transit-oriented development. These adopted plans include the Hercules General Plan, Zoning Ordinance, Waterfront District Master Plan (WDMP), and Waterfront NOW Initiative (WDMP Initiative). The Hercules Bayfront Project proposes amendments to these adopted City plans, as described in Draft EIR subsection 3.5.4 (Proposed Project General Plan, Zoning, and WDMP Amendments).

- L 6.02 Air Quality--Mitigation 5-2 (Long-Term Regional Emissions Increases)--A multi-modal transit hub would be an ideal location for Electric Vehicle (EV) charging ports in preferred parking areas.

Response: It is anticipated that certain parking garages within the project would include charging ports for electric vehicles, consistent with Mitigation 5-2.

- L 6.03 Noise--Impact 13-2 (Potential Exposure of Project Development to Interior Noise Levels Exceeding Standards)--Reinforcing mitigation needs described in Mitigation 13-2, with residential units next to railroad tracks, it is important to build to a much more rigorous standard of sound insulation for bedroom interiors.

Response: As explained in Draft EIR chapter 13 (Noise), the performance standards described in Draft EIR Mitigation 13-2 are consistent with the State Building Code (SBC) and the Hercules General Plan Noise Element. Directly relevant to the comment, Mitigation 13-2 also notes, "The specific determination of what treatments are necessary shall be conducted on a unit-by-unit basis," subject to review and approval by the City.

- L 6.04 Transportation and Circulation--The proposed mixed-use, pedestrian-focused, transit-oriented project is designed to discourage automobile use and encourage alternative modes of transportation.

Response: Comment acknowledged. The transit-oriented development (TOD) aspects of the project as they relate to potential environmental impacts are discussed throughout the Draft EIR (e.g., chapter 3--Project Description).

- L 6.05 Project Description--Tables 3.2 and 3.3--The proposed project increase in office and retail will help reduce driving by residents, who will not have to travel from home to find such services.

Response: The mixed-use nature of the project as it relates to potential environmental impacts is discussed throughout the EIR. For example, Table 16.10 (Project Trip Generation) assigns trip reductions for the mixed-use relationships in the project.

- L 6.06 Project Description--Subsection 3.5.3 (Proposed Project Development Program by Area and Block)--In order to reduce traffic, it makes sense to build hotel, civic, or conference space adjacent to the proposed ITC multi-modal transit hub.

Response: See responses to comments L 6.04 and L 6.05.

- L 6.07 Project Description--Subsection 3.5.4 (Proposed Project General Plan, Zoning, and WDMP Amendments)--Project Blocks F, H, and J are proposed for 2 to 4 stories, next to existing 2-story houses. Could the fourth floor of these buildings be limited to 50 percent of the floor's buildable area?

Response: The comment pertains to the merits of the project, not to the content or adequacy of the Draft EIR. The proposed project's Form Based Code does not include specific setback requirements for project buildings and, therefore, the Draft EIR does not discuss any such project provisions. However, this circumstance does not preclude City decision-makers from evaluating the issue during its deliberations on project approval. Decisions pertaining solely to building setbacks are not anticipated to change the impact or mitigation findings of the EIR.

- L 6.08 Project Description--Table 3.4 ("revised block shape and surrounding local street configuration")--In the proposed street layout, Bayfront Boulevard, Sycamore Avenue, and Main Street would no longer continue directly into The Bowl area, and Main Street would have a "jog" (see Draft EIR Figure 4.3).

Response: The comment pertains to the merits of the project, not to the content or adequacy of the Draft EIR. As noted in the comment, Figure 4.3 depicts the "jog" in the street route, which is intended to avoid the Clubhouse historic building; as the simulation shows, the transition would not be as abrupt as might appear on the site plans.

- L 6.09 Project Description--Subsection 3.5.5 (Proposed Project Circulation and Transit Components)--The formerly proposed "Edge Street" near the North Channel is now identified as a pedestrian-only path. The proposed project could provide a more direct travel connection between the project's Transit Village and the off-site Bio-Rad property to the northeast.

Response: The project's Street and Circulation Regulating Plan (Draft EIR Figure 3.8) provides for a potential future connection to Linus Pauling Drive and access to the business park (Bio-Rad property) between Blocks P and R. The formerly proposed Edge Street is adjacent to the North Channel, which contains biological resources (see Draft EIR chapter 6). To help protect the biological resources, "Edge Street" is now proposed as a pedestrian-only path.

- L 6.10 Alternatives to the Proposed Project--The proposed transit-oriented, mixed-use project is one of the best ways to handle California's growth. If this project were not built here, growth would have to be accommodated elsewhere.

Response: Comment acknowledged. The comment pertains to the merits of the project, not to the content or adequacy of the Draft EIR. No further response is required.



L 7

Monday March 7, 2011

Dennis Tagashira
Planning Director
City of Hercules
111 Civic Drive
Hercules, CA 94547

RE: Hercules Bayfront Project and Transit Center

Dear Mr. Tagashira,

Since 1958, Greenbelt Alliance has worked to both protect the iconic landscapes that define the Bay Area and to promote walkable urban neighborhoods. Greenbelt Alliance endorsed the Hercules Bayfront project proposed by Anderson Pacific, LLC in November 2008. We are pleased to hear that the development has reached the EIR phase and may soon become a part of the fabric of the City of Hercules.

L 7.01

We endorsed this project particularly because of its orientation around a planned multimodal transit facility. The site is within walking distance of the transit hub with WestCAT buses, Amtrak Capital Corridor trains, and WETA ferries. The density of the Bayfront project will help sustain the transit center, and the transit center, in turn, is critical to support the density of the project. The significant transit service offered by the transit center will reduce unnecessary car trips, and the design of the project will encourage walking, biking, and other means of transportation. The project's pedestrian-oriented design, including plazas, wide sidewalks, street trees, connections to the Bay Trail, and new regional open space, will offer safe pedestrian routes to and around this transit hub. The coordinated development of these two projects can dramatically revitalize Hercules, providing new homes, jobs, and shops in a climate-friendly manner, while giving people more transportation choices.

In closing, Greenbelt Alliance urges the City to continue planning for transit-oriented development coordinated with the development of new transit resources. This kind of smart growth helps protect open space by fulfilling our region's housing needs within our existing neighborhoods, while improving the quality of life for all Bay Area residents.

Regards,

Marla Wilson
Sustainable Development Associate

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INFO@GREENBELT.ORG • WWW.GREENBELT.ORG

L 7 Marla Wilson, Sustainable Development Associate, Greenbelt Alliance; March 7, 2011 (1 page)

- L 7.01 Project Description--The Greenbelt Alliance endorses the proposed project particularly because of its orientation around a planned multi-modal transit facility. The density of the Bayfront project will help sustain the transit center, and the transit center, in turn, is critical to support the density of the project. The Greenbelt Alliance urges the City of Hercules to continue planning for transit-oriented development coordinated with the development of new transit resources.

Response: Comment acknowledged. The comment pertains to the merits of the project, not to the content or adequacy of the Draft EIR. No further response is required.

Via E-mail and US Mail

March 7, 2011

Dennis Tagashira, Planning Director
City of Hercules
111 Civic Drive
Hercules, CA 94547

RE: **Draft Environmental Impact Report - Hercules Bayfront Project
(State Clearinghouse No. 2009112058)**

Dear Dennis:

As the applicant and co-author of the Waterfront District Master Plan (“WDMP”) adopted on July 25, 2000, and as the applicant for all entitlements approved within the Waterfront District from 1999 through the end of 2004, I have extensive knowledge and background on the Waterfront District.

I have been retained by Bayfront Hercules, a California General Partnership (“Partnership”) to review the Hercules Bayfront DEIR on their behalf. The Partnership is the property owner of two blocks of land on the southside of Bayfront Boulevard contained within the Project Area (Figure 3.4). These two parcels of land are illustrated as blocks F and H in the DEIR (Figures 3.6 to 3.10).

On the behalf of the Partnership, the following comments on the DEIR are provided below:

1. The DEIR needs to be revised to note that a range of intensities are allowed for under the Bayfront Livework/Mixed Use Project existing entitlements for blocks F and H. The DEIR only provides an analysis of the intensity of development of the 11,000 sq. ft. and 25 multi-family residential units scenario allowed under the entitlements for each of these two blocks. L 8.01
2. **The DEIR incorrectly illustrates the General Plan and Zoning designations of the Partnership’s properties, and all the other properties which were contained in the Bayfront Livework/Mixed Use Project¹.** L 8.02

On January 20, 2004, the Planning Commission approved an application consisting of a Vesting Tentative Subdivision Map (No. 8582), Planned Development Plan (File No. 02-06), and General Plan Refinement (File No. 02-05) changing the land use

¹ Specifically Page 3-21 Footnote 2 sentence” The City’s General Plan and Zoning Map identify these blocks as “Residential Single Family Low Density.”, Figure 3.10 designation as RS-L (Residential Single Family Low Density)

Page 2

designation to the Mixed Use PC-R (Planned Commercial – Residential) (copy attached), and to allow a 3.66-acre parcel to be subdivided to create 19 lots, with associated landscaping and public improvements to be constructed for the proposed Bayfront Boulevard Live/Work project. As noted in the Planning Commission Staff Report, **“The subject property is currently zoned Waterfront District Master Plan (Chapter 27) and is contained within the Historic Town Center Sub-District of the Hercules Waterfront District Master Plan (HWDMP)”** (emphasis added).

On October 12, 2004, the City Council considered an appeal of the Planning Commission’s January 20, 2004 approval from Richard T. Drury, Adams Broadwell Joseph & Cardozo, submitted on the behalf of the International Brotherhood of Electrical Workers Union Local 302, Sheet Metal Worker Union Local 104, Plumbers and Steamfitters Union Local 159, and from Mr. Robert Sewell of the Planning Commission’s approval of the Project on January 20, 2004. Upon agreement between the parties, the appeal was withdrawn and the City Council adopted a Resolution titled: “Modifying With Determinations and Conditions As The Facts Warrant, the Decision of the Planning Commission”. The City Council at that time also approved the 1st reading of the attached Ordinance Bayfront Livework/Mixed Use Project. This ordinance was subsequently adopted on October 26, 2004, (CC Agenda Item XI.4) (Copy Attached).

The Ordinance adopted on October 26, 2004, specifically states:

“NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Hercules hereby approves Zoning Text Amendment No. 02-05 to amend the Hercules Waterfront District Master Plan.

The City Council of the City of Hercules does hereby ordain as follows:

Section 1. Zoning Maps. City staff is hereby directed to prepare revised City zoning maps consistent with the zoning designations set forth in this Ordinance. The Hercules Zoning Map shall designate the area as the “Hercules Waterfront District Master Plan.” Language to the Hercules Zoning Ordinance, as Chapter 27 of the Zoning Ordinance, will discuss the addition of the Bayfront Boulevard project, and may refer readers to specific text and diagrams of the Hercules Waterfront District Master Plan” (emphasis added).

The Partnership is very concerned that the City has failed to update the General Plan and Zoning Map as specifically called for in the above referenced ordinance, and has without due process modified the entitlements which we acquired when we purchased blocks F and H within the Waterfront District.

Page 3

The Partnership respectfully requests that the City and the applicant take any and all action to rectify this situation and the DEIR text and Figures be revised accordingly to remove this error.

Please feel free to contact the undersigned if you have any questions regarding this letter or require any additional information.

On the behalf of Bayfront Hercules, a California General Partnership,

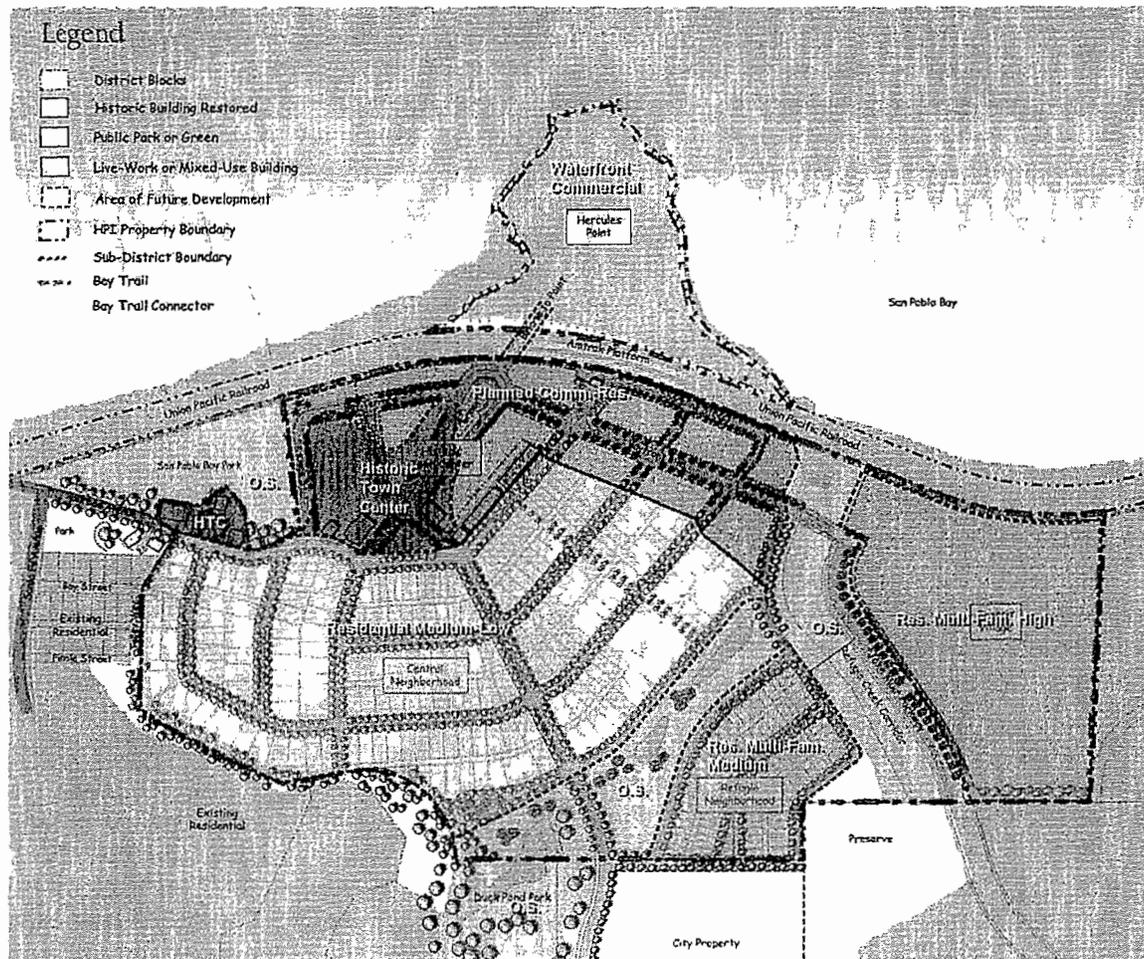


John M. Baucke, AICP CNU
President and CEO

Cc: Doreen Mathews, City Clerk
Robert Reber, Acting Planning Director

Attachments:

1. General Plan Refinement (File No. 02-05)
2. Excerpt January 20, 2004 Planning Commission Staff Report
3. October 26, 2004, CC Agenda Item XI.4 Adopted Ordinance



ATTACHMENT 2

EXCERPT: PLANNING COMMISSION STAFF REPORT JANUARY 20, 2004:

- c. **DESCRIPTION OF PROPOSED PROJECT.** The proposed project containing 3.66 gross acres is referred to as the Bayfront Boulevard Live-Work/Mixed-Use Project. The subject property is currently zoned Waterfront District Master Plan (Chapter 27) and is contained within the Historic Town Center Sub-District of the Hercules Waterfront District Master Plan (HWDMP). The Applicant proposes to resubdivide four (4) parcels (Parcel D, E, F and Lot 200) that were created with the recordation of Final Subdivision Map 8407 to create 19 lots within Vesting Tentative Subdivision Map (VTSM) No. 8582 and incorporate Lot 16 of Final Map No. 8644 into Planned Development Plan File No. 02-06. The proposed project is comprised of the following actions:
- Planned Development Plan, File No. 02-06. The purpose of Planned Development Plan 02-06 is to establish uses and improvements that may occur, creates five new building types, and locates where the five additional building types can be placed. Planned Development Plan File No. 02-06 proposes that nineteen (19) lots be created from Vesting Tentative Subdivision Map No. 8582 and incorporates an existing lot (Lot 16 of Final Subdivision Map No. 8644) into the proposed Planned Development Plan.
 - Zoning Text Amendment to the HWDMP, File No. 02-05, proposes to amend the adopted Hercules Waterfront District Master Plan (HWDMP) Chapter 27 of the Zoning Ordinance to establish more specific urban regulations (Regulating Plan), and incorporate five additional building types, add development standards by use and building types (including minimum lot size and dimensions, setbacks, building height, coverage, landscaping, parking, and signage), architectural regulations, clarifying specific definitions, and adding additional standards for streets and alleys.
 - Vesting Tentative Subdivision Map No. 8582 proposes to subdivide four legal lots totaling approximately 2.02 net acres into 19 lots for the development of a Live-Work/Mixed-Use project, generally located on the south side of the Bayfront Boulevard frontage between the proposed Railroad Avenue and west of Sanderling Drive. Also included are the associated dedications for public right-of-way and utility easements.
 - General Plan Refinement File No. 02-01, proposes to refine the General Plan Land Use Designations of subject property currently designated GC (General Commercial) and RM-L, (Residential Medium-Low), with a density of 12 dwelling units per acre to the Mixed Use PC-R (Planned Commercial – Residential) designation that carries a 40-50-foot height maximum, an FAR of 0.20-0.40, and a density of 15-30 dwelling units/acre maximum.

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L 8

ORDINANCE NO. ____

AMENDING THE HERCULES ZONING CODE TO ESTABLISH ZONING REGULATIONS AND DEVELOPMENT STANDARDS INCORPORATING AMENDMENTS TO THE HERCULES WATERFRONT DISTRICT MASTER PLAN AS THE REGULATING AND DESIGN CODES FOR THE HISTORIC TOWN CENTER SUB-DISTRICT PLAN DEVELOPMENT KNOWN AS “BAYFRONT BOULEVARD LIVE-WORK”, ZONING TEXT AMENDMENT FILE NO. 02-05

WHEREAS, on January 20, 2004, the Planning Commission approved an application consisting of a Vesting Tentative Subdivision Map, Planned Development Plan, and General Plan Refinement, to allow a 3.66-acre parcel to be subdivided to create 19 lots, with associated landscaping and public improvements to be constructed for the proposed Bayfront Boulevard Live/Work project proposed by The Bixby Company; and

WHEREAS, the applicant proposes to include the Historic Town Center SubDistrict Plan into the Hercules Waterfront District Master Plan; and

WHEREAS, City Council intends to approve Zoning Text Amendment No. 02-05 to incorporate the Historic Town Center SubDistrict Plan into the Hercules Waterfront District Master Plan; and

WHEREAS, Pursuant to Section 15378(a)(1) of the California Environmental Quality Act (CEQA) a project is defined as, “an activity directly undertaken by any public agency including but not limited to public works construction and related activities, clearing or grading of land, improvements to existing public structures, enactment and amendment of zoning ordinances, and the adoption and amendment of local General Plans or elements thereof pursuant to Government code Sections 65100-65700”. The Zoning Text Amendment is considered to be a project and an environmental review must be conducted.

WHEREAS, on January 20, 2004, the Planning Commission of the City of Hercules, based on findings of fact and in accordance with CEQA, approved and adopted the Initial Study and Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the Bayfront Boulevard Live-Work/Mixed-Use Project, a proposal by John Baucke representing The Bixby Company, to:

Amend the Hercules Waterfront District Master Plan (HWDMP), and adopt Zoning Text Amendment No. 02-05 generally to include uses, urban regulations, architectural regulations, and development standards for the Historic Town Center SubDistrict;

- (a) Approve a General Plan Refinement File No. 02-01;
- (b) Approve a Planned Development Plan File No. 02-06 for the Bayfront Boulevard Live-Work/Mixed-Use project in the Historic Town Center Sub-District; and

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- (c) Subdivide 2.02 acres into 19 lots and associated right-of-way (Vesting Tentative Subdivision Map No. 8582) plus one .320-acre lot for the development of a mix of uses ranging from 83 to 110 residential units and 29,150 to 38,750 sf of non-residential (flex/commercial) space; and

WHEREAS, in accordance with CEQA, the City Council of the City of Hercules has considered the Initial Study and Mitigated Negative Declaration for the Bayfront Boulevard Live-Work/Mixed-Use Project adopted by the Planning Commission on January 20, 2004; and

WHEREAS, on October 12, 2004 prior to the reading of this Ordinance, the City Council adopted a Resolution “Modifying With Determinations and Conditions As The Facts Warrant, the Decision of the Planning Commission To Approve” the balance of the project application, with additional CEQA findings and incorporation of and additional Mitigation Measure (No. 22); and

WHEREAS, the City Council finds after due study, deliberation and public hearing, that, on the basis of the whole record before it, (including the Initial Study and Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and all comments received on the Initial Study and Mitigated Negative Declaration) that there is no substantial evidence that the project, as modified by the mitigation measures identified in the Final Mitigated Declaration and as hereby amended to include additional Mitigation Measure No. 22, will have a significant adverse effect on the environment; and

WHEREAS, the location and custodian of the documents and all other material which constitute the record of proceedings upon which this decision is based are located at the office of the City of Hercules Planning Division, located at 111 Civic Drive, Hercules, California; and

WHEREAS, the City Council finds, after due study, deliberation and noticed public hearings, that the establishment of Zoning Regulations and Development Standards as contained in the Hercules Waterfront District Master Plan – Historic Town Center Sub-District Plan – are consistent with the following findings:

- a. The proposed amendment is consistent with the General Plan.
- b. The proposed amendment would not be detrimental to the health, safety, welfare and public interest of the City.
- c. That the proposed amendment is internally consistent and does not conflict with the purposes, regulations and required findings of the Zoning Ordinance.

WHEREAS, the City Council finds that the applicant agrees with the necessity of and accepts all elements, requirements and conditions of this Ordinance as being a reasonable manner of preserving, protecting, providing for, and fostering the health, safety, and welfare of the citizenry in general and the persons who work, visit or live in this development in particular; and

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NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Hercules hereby approves Zoning Text Amendment No. 02-05 to amend the Hercules Waterfront District Master Plan.

The City Council of the City of Hercules does hereby ordain as follows:

Section 1. Zoning Maps. City staff is hereby directed to prepare revised City zoning maps consistent with the zoning designations set forth in this Ordinance. The Hercules Zoning Map shall designate the area as the "Hercules Waterfront District Master Plan." Language to the Hercules Zoning Ordinance, as Chapter 27 of the Zoning Ordinance, will discuss the addition of the Bayfront Boulevard project, and may refer readers to specific text and diagrams of the Hercules Waterfront District Master Plan.

Section 2. Publication and Effective Date.

(a) This Ordinance shall be published in accordance with applicable law, by one or more of the following methods.

- (1) Posting the entire Ordinance in at least three (3) public places in the City of Hercules, within fifteen (15) days after its passage and adoption or
- (2) Publishing the entire Ordinance at least once in the West County Times, a newspaper of general circulation published in the County of Contra Costa and circulated in the City of Hercules, within fifteen (15) days after its passage and adoption; or
- (3) Publishing a summary of the Ordinance prepared by the City Attorney in the West County Times and posting a certified copy of the entire Ordinance in the office of the City Clerk at least five (5) days prior to the passage and adoption, and a second time within fifteen (15) days after its passage and adoption, along with the names of those City Council members voting for and against the Ordinance.

(b) This Ordinance shall go into effect thirty (30) days after the date of its passage and adoption.

THE FOREGOING ORDINANCE was first read at a meeting of the Hercules City Council on the twenty-fourth day of February 24, 2004, and was passed and adopted at a regular meeting of the Hercules City Council on the twelfth day of October 2004, by the following vote:

AYES:

NOES:

ABSENT:

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ABSTAIN:

ATTEST:

Joanne Ward, Mayor

Doreen Matthews, City Clerk

L 8 John M. Baucke, AICP CNU, President and CEO, New Urban Realty Advisors, Inc.; March 7, 2011 (9 pages)

- L 8.01 Project Description--The Draft EIR needs to be revised to note that a range of development intensities are allowed under the Bayfront Live-Work Mixed-Use Project existing entitlements for Blocks F and H.

Response: The entitlements granted in 2004 for Blocks F and H have since expired. The Waterfront District Master Plan (WDMP), as amended by the Waterfront Initiative in 2008, dictates the allowed uses for Blocks F and H, as well as maximum building height and setbacks. Section 1.5 of the WDMP, "Neighborhood Build-Out" (as amended by the 2008 Waterfront Initiative) estimates the build-out for Blocks F (0.70 acres) and H (also 0.70 acres) each as 25 residential units and 11,000 square feet of retail space (50 residential units and 22,000 square feet of retail combined). This estimate was used in the Draft EIR as the basis for an approximate maximum amount of development, consistent with the uses and building form allowed by the WDMP. Although the final entitlements for Blocks F and H may vary slightly from these numbers, any differences are not anticipated to change the impact or mitigation findings of the EIR.

- L 8.02 Project Description--The Draft EIR incorrectly illustrates the General Plan and Zoning designations for Blocks F and H. The blocks should be designated "Hercules Waterfront District Master Plan."

Response: As discussed in response to comment L 8.01, the Hercules Waterfront District Master Plan (WDMP) provides the governing regulations for Blocks F and H. However, the zoning designation for those two blocks, as well as Block J--as established in 2008 by the City of Hercules Land Use and Zoning Map, Exhibit B of the Waterfront Initiative--is "RS-L" (Residential, Single-Family, Low-Density). This RS-L designation is in direct conflict with both the letter and spirit of the WDMP. Furthermore, the zoning designation of "Historic Town Center" for other portions of the project area (Blocks A, B, C1, C2, C3, D, E, G, and I) presents additional inconsistencies with the WDMP. Therefore, to reconcile the discrepancy and create General Plan consistency, the City shall at its discretion--either prior to or concurrent with project approvals--change the zoning designation for Blocks A, B, C1, C2, C3, D, E, F, G, H, I, and J to "Waterfront District Master Plan" (as provided for under Chapter 27 of the Hercules Zoning Ordinance), or other zoning designation compatible with the WDMP. This zoning designation change is consistent with the project as analyzed in the EIR and does not change the impact or mitigation findings of the EIR.

To: Robert Reber, Acting Planning Director
From: Sherry McCoy
Subject: Questions and Comments for Draft EIR for the Hercules Bayfront Project

L 9

Given below are my questions and comments for the Draft EIR for the Hercules Bayfront Project.

Please contact me if you have any questions.

Comments/Questions:

- Mitigation 6-3 – “Complete preconstruction fairy shrimp surveys in winter 2010/2011.....” - has this been started/completed? L 9.01

- Mitigation 6-5 mentions regular monthly maintenance of the Clubhouse and Administration Buildings – what does the monthly maintenance entail and what is the current condition of these buildings? L 9.02

- Mitigation 7-1 – “In addition, the City shall require at its discretion, Hercules Bayfront Project construction of the shared Bay Trail facility retaining wall or other similar barrier adjacent to the railroad tracks, which would also act as a sea level rise protection wall, if the wall is not built as part of the ITC project.” Under what scenario would the ITC not build the wall and how would this scenario impact the EIR overall? L 9.03

- Mitigation 10-1 – What type and level of contaminants and have been encountered previously on the site? L 9.04

- Mitigation 13-1 – Although project construction noise is mitigated, the project construction is planned for approximately 2-10 years (pg 3-34). Are construction times of 7:30-5, M-F, acceptable to the impacted neighborhoods? What streets are anticipated to be impacted or blocked off during phases of construction and how will that impact traffic flows on other major or neighborhood streets? L 9.05

- Mitigation 16-2-3 (a): With the addition of the second right-turn lane from northbound San Pablo Ave to eastbound John Muir Parkway, how will impacts to/safety of pedestrians be handled? L 9.06

- Mitigation 16-2-3 (b): “....The widening would also require widening of the I-80 Westbound On-Ramp from one to two lanes.....” This on-ramp already has two lanes, one from San Pablo/John Muir Pkwy (eastbound) and one from Hwy4 (westbound) which then merge into one lane. Is the mitigation suggesting three lanes, which would then merge to one lane, or something else?; Why isn’t the expansion of the Willow Ave on and off-ramps considered a possible mitigation? L 9.07

- Page 3-17: What is the square footage of the Administration building and the Clubhouse building (included as part of the office (non-flex) square footage in The Bowl project area)? L 9.08

- Page 3-18: What are the owners’ plan(s) for Block F and H (ie type, timing, etc)? L 9.09

- Page 3-22: Other plans have shown Block K as a parking facility. Has that changed and if so, is there a parking facility planned? L 9.10

L 9

Page 3-29/ 3.5.5: Could a bike lane/circulation map within the project be included?;
“..... the Hercules Bayfront Project proposes to replace “Edge Street I” with a pedestrian path
along the North Channel.....” Will there be a street between John Muir Parkway and Linus
Pauling Dr or another access between the project and the business park? **L 9.11**

Page 5-21: Will charging stations for electric cars be included in the project? **L 9.12**

Page 6-26/ Mitigation 6-1: How would potential limitations on construction activities from Aug
1 through end of February in specified Blocks(I, J, K and N) impact timing/intensity of
construction and associated noise, air quality, etc.? **L 9.13**

Chapter 13: Were increased numbers of trains considered in the analysis? **L 9.14**

Table 14.1 – This table shows an anticipated increase in households of 3400 in Hercules from
2010 and 2035. However, Table 12.4 shows an additional 3522 residential units, not including
the 1392-1526 units for the Bayfront Project. Are residential units and households defined
differently and if so, how? **L 9.15**

Chapter 15 (pgs 15-5 and 15-9): Different numbers/assumptions were used to calculate the
Development Impact Fees – would it be better to show a range for each? **L 9.16**

Page 15-9: The approximate DIF fee is approximately \$1.13 million using the numbers provided. **L 9.17**

15.5.4 – The rate of 0.198 students per multi-family unit seems low – what is the current average
student generation rate for Hercules? **L 9.18**

Chapter 15/16: How would police and fire response times be impacted by cumulative traffic
impacts? **L 9.19**

Figure 16.4 and 16.7 – Why would there be no increase in volume at the Willow Ave/80 on and
off-ramps, with the project? Not directly from the project, but wouldn’t some traffic from other
developments, such as Victoria by the Bay, switch to the Willow Ave ramps; The increase in
numbers in the AM hours, a portion of which would be cars heading to the Transit Center, seems
low. **L 9.20**

Page 16-41/Mitigation 16-2: How will bike and pedestrian traffic be handled with additional
lanes? (See page 16-29, ii. *Pedestrians and Bicycles*) **L 9.21**

16.3.6 – Does the Parking Analysis include anticipated parking requirements for the ITC project
or just for the Hercules Bayfront Project? **L 9.22**

Chapter 16; Different peak hour assumptions, 7-9AM, 4-6PM on pg 16-5 and 7:30-8:30AM,5-
6PM on pg 16-12, were used for the analyses. Does this impact any of the conclusions? **L 9.23**

General Comments:

The currently proposed project layout as evaluated in the EIR is different that what was
previously proposed. Please confirm that any changes would be fully evaluated by the Planning
Commission. **L 9.24**

Project sponsor is used at times, project applicant at others; this is the same entity – correct? **L 9.25**

Given that several other projects (see Table 12.4) within the city will be delayed or potentially changed, the traffic impacts could be less than indicated and the EIR represents the worst case scenario – correct? **L 9.26**

Per the EIR, “The courts have held that increased classroom enrollment resulting in school overcrowding is considered a “social” rather than a physical “environmental” impact and is not, in itself, a significant environmental impact requiring mitigation under CEQA.....” so there is a finding of less-than-significant impact on schools. However, as it is stated in the EIR “...public schools in Hercules are currently over-capacity....” and that “... the WCCUSD has not identified any particular new school site on property that it owns and currently has not definitive, adopted plans to build new school facilities”, this should be a concern for the city **L 9.27**

Given the impacts to various intersections, the city will need to develop plans to discourage through traffic on local/neighborhood streets. **L 9.28**

“The remaining unmet parking demand.....would likely shift to the adjacent neighborhoods.....” (page 16-49) – the city should develop a parking policy to address potential parking issues in adjacent neighborhoods. **L 9.29**

The EIR concludes that Alternative 19.3 provides the “environmentally superior alternative” but “would be less effective than the proposed project in attaining the project objectives.....”. As described, it appears that the project, Alternative 19.2 and Alternative 19.3 meet the project objectives but at different levels of density. As stated in the EIR, the density impacts the number of “.....residents, workers and visitors having direct access to these Hercules Bayfront Project amenities, as well as the adjacent planned Intermodal Transit Center (ITC) facilities.” However, maximizing the density doesn’t appear to be a project objective. In addition, the stated aesthetic and urban design purposes of the WDMP include (pg 4-4): Preserve and enhance scenic views; provide careful design review to maximize benefits of mixed-use development while minimizing its negative impacts. As such, decision-makers should balance density vs impacts. **L 9.30**

Editorial Comments:

In section 3.5.5, the last two references to Figure 3.6 (last sentence of paragraph 3 and in paragraph 4), should this be Figure 3.8? **L 9.31**

Table 12.1 - “Waterfront District Master Plan Build-Out Estimate Without Project” - should this be Without Project-Proposed Amendments”? (also Table 12.1 reference on page 12-7) **L 9.32**

12.3.2 – second paragraph, second to last sentence - should Figure 3.5 referenced here be Figure 3.6? **L 9.33**

Page 15-2: The order on the list at the top of the page (Items 1-6) and further down on the page should match how they are present in the Chapter (ie 15.2 is Police Services but is listed second on the listings on page 15-2) **L 9.34**

Page 16-1: Third paragraph – “Caltrans plans to begin....” should be “Caltrans began.....” **L 9.35**

L 9 Sherry McCoy, Chair, City of Hercules Planning Commission; undated--received March 7, 2011 (3 pages)

- L 9.01 Biological Resources--Mitigation 6-3 (Potential Inadvertent Project Take of Vernal Fairy Shrimp)--Have the winter 2010/2011 fairy shrimp surveys been started/completed?

Response: The winter vernal fairy shrimp surveys have been completed. No fairy shrimp were found. Mitigation 6-3 has been completed. The Draft EIR text has been revised in Mitigation 6-3 and on page 6-17; the revisions are included in section 3.3 (Draft EIR Revisions) of this Final EIR.

- L 9.02 Biological Resources--Mitigation 6-5 (Potential Loss of Roosting Habitat for Special-Status Bats)--Re. the Clubhouse and Administration buildings, what does monthly maintenance entail, and what is the current condition of these buildings?

Response: The buildings are structurally sound, vacant, and sealed from public access. Regular monthly maintenance includes a physical inspection of the buildings to make certain that all points of ingress are sealed and that no hazardous conditions exist.

- L 9.03 Climate Change--Mitigation 7-1 (Sea Level Rise Impacts on Project Development)--Under what scenario would the ITC project not build the shared Bay Trail retaining wall, and how would this scenario impact the EIR overall?

Response: As described in Draft EIR section 3.6 (Shared Facilities--Bay Trail and Waterfront Promenade), the retaining wall is a shared facility with the proposed ITC project and is necessary to serve both projects. The Hercules Bayfront Project would construct the retaining wall, as described in section 3.6, if Hercules Bayfront Project construction precedes ITC project construction. As section 3.6 states, "If the ITC project does not precede the Hercules Bayfront Project, the...retaining wall component along the Hercules Bayfront Project northern boundary would need to be constructed by the Hercules Bayfront Project as part of the Bay Trail shared facility."

- L 9.04 Hazards and Hazardous Materials--Mitigation 10-1 (Potential Exposure to Existing Hazardous Materials Contamination)--What type and level of contaminants have been encountered previously on the project site?

Response: The information requested is included in Draft EIR subsections 10.1.2 (Soil/Groundwater Contamination Potential) and 10.1.3 (Asbestos, PCB, and Lead-Based Paint Potential). As a result of historical manufacturing activities that occurred on-site from 1879 to 1977, soil and groundwater had become contaminated with various metals and organic compounds. The project site has undergone a substantial level of investigation and remediation since the early 1980s under the auspices of the California Department of Toxic Substances Control (DTSC). These investigations confirmed the presence of arsenic, cadmium, chromium, copper, lead, mercury, nickel, zinc, petroleum hydrocarbons, and polynuclear aromatic hydrocarbons in soil and/or groundwater. All contaminants on-site have been remediated under DTSC oversight to a level that allows residential development.

- L 9.05 Noise--Mitigation 13-1 (Project-Facilitated Construction Period Noise)--Are the construction period times acceptable to the impacted neighborhoods? What streets are anticipated to be impacted during construction, and how will this situation impact traffic flows on other streets?

Response: Draft EIR Mitigation 13-1 (Project-Facilitated Construction Period Noise) requires various conditions in construction contracts related to construction planning, scheduling, equipment, and traffic, all subject to review and approval of the appropriate City staff. The number of vehicles traveling to and from the project site would be substantially less than when the project buildings are occupied. However, some construction traffic would involve large trucks, which are not compatible from a weight or noise standpoint with the residential streets near the site. Also, it may be necessary to partially or completely close streets around the site during certain phases of construction, at appropriate times and with appropriate detours so that congestion is not created. The construction traffic plan identified in Mitigation 13-1 requires all construction traffic to be routed via designated truck routes where possible and requires all construction traffic routes to be approved by the City of Hercules.

- L 9.06 Transportation and Circulation--Mitigation 16-2-3(a) (Cumulative Plus Project Impacts on Intersection Operations)--With the addition of a second right-turn lane from northbound San Pablo Avenue to eastbound John Muir Parkway, how will impacts on, and safety of, pedestrians be handled?

Response: There are various options for addressing bicyclist and pedestrian safety as part of the mitigations. These treatments would vary based on community values at the time of detailed mitigation design. For example, some elements to consider for the recommended two right-turn lanes on San Pablo Avenue approaching John Muir Parkway include: (1) signaling the two right-turn lanes, including pedestrian crossing signals; (2) designing a compound curve into the two right-turn lanes to slow down drivers approaching the turn; or (3) installing a bike lane between the through and right-turn lanes. Similar options could be considered for other intersections.

Currently, the single right-turn lane at San Pablo Avenue/John Muir Parkway has no signal (only a Yield sign); therefore, compared to existing conditions, bicyclist and pedestrian safety would be improved.

- L 9.07 Transportation and Circulation--Mitigation 16-2-3(b) (Cumulative Plus Project Impacts on Intersection Operations)--The I-80 westbound on-ramp already has two lanes, one from San Pablo/John Muir Parkway and one from Highway 4, which then merge into one lane. Also, why isn't the expansion of the Willow Avenue on- and off-ramps considered a possible mitigation?

Response: The I-80 westbound on-ramp does not already have two separate lanes; as implied by the comment, currently two lanes merge into one lane onto the on-ramp (see Draft EIR Figure 16.4). For Mitigation 16-2-3(b), a second right-turn lane from San Pablo Avenue toward the on-ramp would be added, as would a second on-ramp lane, thereby creating three lanes that would merge into two lanes on the on-ramp (see Draft EIR Figure 16.12).

Regarding the Willow Avenue on- and off-ramps improvement at I-80 (under construction), this improvement is already assumed in place under Cumulative conditions (see Draft EIR page 16-16, Roadway Network Assumptions); therefore, its effects on local and regional traffic volumes and distribution are incorporated into the traffic model under Cumulative (2035) conditions. However, this improvement is not expected to measurably divert traffic away from the *westbound* I-80 ramp at San Pablo Avenue/John Muir Parkway because the I-80 Willow Avenue ramps are farther east, requiring a westbound traveler to drive approximately one mile in the opposite direction (east) on San Pablo Avenue, then backtrack (west) another one mile on I-80, to return to the initial I-80 interchange with John Muir Parkway. Compared to this detour, San Pablo Avenue (the beginning point of the 2-mile detour) is approximately 1/8th of a mile from the I-80 interchange with John Muir Parkway.

As a separate project, and as stated in the Draft EIR (page 16-3), the City is studying the relocation of the Willow Avenue on- and off-ramps to the Willow overcrossing of SR 4. Caltrans has prepared a Project Study Report (PSR) for relocating the ramps, which typically indicates Caltrans' intent to approve a project. However, this improvement would primarily benefit drivers to and from the areas east of the I-80 corridor. Even if this improvement is constructed, there would be minimal effect on the intersection of San Pablo Avenue/John Muir Parkway.

- L 9.08 Project Description--What is the square footage of the Administration Building and the Clubhouse, which are proposed as part of project development of The Bowl area?

Response: As included in the Draft EIR analysis, the Administration Building would accommodate approximately 40,000 square feet of office (non-flex) floor area, and the Clubhouse would accommodate about 15,000 square feet of office (non-flex) floor area.

- L 9.09 Project Description--What are the owners' plan(s) for Block F and H?

Response: As described in several places in the Draft EIR (e.g., see Table 3.2), Hercules Bayfront, LLC, the project applicant, does not own or control Blocks F and H. Each of these blocks has been conservatively assigned a buildout potential of 25 residential units and 11,000 square feet of retail (non-flex) square footage, consistent with the estimated build-out listed in Section 1.5 of the Waterfront District Master Plan (WDMP). The Form Based Code included in the adopted WDMP provides development standards and design guidelines for future planning and development on these blocks. Also see responses to comment letter 8.

- L 9.10 Project Description--Other plans have shown Block K as a parking facility. Has that changed?

Response: The project plans provided by City staff for the Hercules Bayfront Project EIR include a mixed-use building on Block K, as indicated in Draft EIR Table 3.2 (Hercules Bayfront Project: Maximum "Ground-Up" Buildout Estimate). The building would also provide public parking to accommodate the Intermodal Transit Center (ITC).

- L 9.11 Project Description--Subsection 3.5.5 (Proposed Project Circulation and Transit Components)--Could a bike lane/circulation map within the project be included? Will there be a street between John Muir Parkway and Linus Pauling Drive between the project and the business park?

Response: Regarding the connection between John Muir Parkway and Linus Pauling Drive, see response to comment L 6.09. Regarding bike lanes, the Waterfront District Master Plan (WDMP) includes detailed Urban Design and Streetscape Standards that establish a framework for all urban design/streetscape elements, including bike lanes and pedestrian pathways, consistent and coordinated with the Street and Circulation Regulating Plan (Draft EIR Figure 3.8), Civic Space Regulating Plan (Draft EIR Figure 3.9), and other standards already included in the WDMP.

- L 9.12 Air Quality--Mitigation 5-2 (Long-Term Regional Emissions Increases)--Will charging stations for electric cars be included in the project?

Response: It is anticipated that certain parking garages within the project would include charging stations for electric vehicles, consistent with Mitigation 5-2.

- L 9.13 Biological Resources--Mitigation 6-1 (Potential Project Impacts on Special-Status Bird Species)--How would potential limitations on construction activities from August 1 through February in Blocks J, K, and N impact the timing/intensity of construction and associated noise, air quality, etc.?

Response: Mitigation 6-1 does not categorically prohibit construction on any project block from August 1 through February, but rather requires pre-construction surveys for nesting birds along the Refugio Creek corridor (Blocks I, J, K, and N), along the North Channel (Blocks N, Q, and R), and within grassland (various project site locations), with subsequent limitations on construction activity should nesting species be found. These potential construction limitations would not change the impact and mitigation conclusions of the Draft EIR for construction-related air pollutant emissions (Impact 5-1) and construction-related noise (Impact 13-1).

- L 9.14 Noise--Were increased numbers of trains considered in the noise analysis?

Response: The train frequencies assumed in the Bayfront Project Draft EIR were the same as those assumed for the ITC EIR/EIS because that information was coordinated between the two EIR consultants. The Draft EIR does not speculate that an overall increased *number* of trains would *result* from the Hercules Bayfront Project, since neither the Bayfront Project nor the ITC project have the jurisdictional authority to manipulate train frequencies and scheduling. Because train noise would result from individual arrivals, departures, and pass-throughs of trains ("individual events"), the noise mitigations would not change based on any potential increased *number or frequency* of trains.

- L 9.15 Population and Housing--The increase in households in Hercules shown in Draft EIR Table 14.1 (ABAG-Estimated Existing and Projected Hercules and Contra Costa County Population, Housing and Job Growth, 2010-2035) and Table 12.4 (Under Construction, Recently Approved, and Pending Development Projects in Hercules) are inconsistent. Are "residential units" and "households" defined differently?

Response: For the CEQA purposes of the Draft EIR, “residential units” and “households” are assumed to be synonymous. Cumulative project buildout numbers shown in Table 12.4 were supplied by City staff. However, Table 12.4 has incorrect numbers in the “Totals” row because, during an early stage of EIR preparation, a previous version of the Hercules Bayfront Project was inadvertently added to the buildout totals in the table. These typos do not change the impact or mitigation conclusions of the Draft EIR because the cumulative projects were input individually into the Draft EIR quantitative analysis (e.g., traffic). The table has been revised (along with accompanying text on page 12-10) and is included in section 3 (Draft EIR Revisions) of this Final EIR. The total number of residential units under construction, recently approved, and pending development in Hercules--not including the proposed Hercules Bayfront Project--is 2,298, not 3,522 as incorrectly noted in the table.

Regarding the apparent inconsistencies noted in the comment, the Association of Bay Area Governments (ABAG) (the source for Table 14.1) receives its data from the individual jurisdictions and updates its information over time as new general plans, general plan amendments, specific plans, and other municipal planning documents are adopted. Every two years, this data is collected by ABAG and published in a document typically known as “ABAG Projections” (see “Source” in Draft EIR Table 14.1). As an example, the “Hercules Waterfront District” is identified as an individual Priority Development Area (PDA) in ABAG Projections (see Table 14.1). The ABAG information is collected from the most recent forecasts available from jurisdictional agencies; such expected differences between current City of Hercules data and older ABAG data do not change the impact or mitigation conclusions of the Draft EIR. The most current, detailed data supplied by City of Hercules staff was incorporated into the Draft EIR quantitative analysis.

- L 9.16 Public Services and Utilities--Police Services (p. 15-5); Fire Protection and Emergency Medical Services (p. 15-9)--Different numbers/assumptions were used to calculate the Development Impact Fees; should a range for each be shown?

Response: As explained in the Draft EIR (pages 15-5 and 15-9), the Development Impact Fees (DIFs) were purposely calculated differently for the Police Department and Fire District because these public service providers apply different formulas for calculating the fees. Therefore, to maintain consistency in the Draft EIR, the DIF for each service provider “was calculated by using the potential combination of project land uses (residential, office, retail) that would yield the highest total fee.” Based on the current fee structure for the Police Department, the DIF project contribution for police facilities would range from approximately \$1.20 million to \$1.26 million. Based on the current fee structure for the Fire District, the DIF project contribution for fire protection facilities would range from approximately \$1.12 million to \$1.13 million. Regardless of these current calculations, the project would be assessed DIFs based on the applicable fee structures in place when the DIFs are assessed (e.g., building permit stage). Also see response to comment 9.17.

- L 9.17 Public Services and Utilities--Fire Protection and Emergency Medical Services--The Development Impact Fee should be approximately \$1.13 million, based on the buildout numbers provided.

Response: The correction has been made on EIR pages 15-8 and 15-9, and is included in section 3 (Draft EIR Revisions) of this Final EIR. Also see response to comment L 9.16. The revision does not change the impact or mitigation conclusions of the Draft EIR.

- L 9.18 Public Services and Utilities--Schools--Subsection 15.5.4--The student generation rate of 0.198 students per multi-family unit seems low; what is the current student generation rate for Hercules?

Response: The student generation rates were provided by the consultant to the West Contra Costa Unified School District (WCCUSD) responsible for collecting and calculating such data. The rates are the current student generation rates for the specific housing types proposed by the project, based on a student generation survey conducted for the WCCUSD (see Draft EIR subsection 15.5.4--Schools, Impacts and Mitigation Measures).

- L 9.19 Public Services and Utilities, Transportation and Circulation--How would police and fire response times be impacted by cumulative traffic impacts?

Response: Police and fire response times are not expected to be measurably affected by cumulative traffic impacts primarily because police and fire vehicles use sirens to open up travel lanes. Also, note that: (1) the Hercules Police Department concluded that emergency response would be improved under the project due to the extension of roadway patterns and consequently improved access (Draft EIR page 15-6--Police Emergency Response, Evacuation, and Access Impacts); and (2) the Rodeo-Hercules Fire District (RHFD) concluded that adequate emergency access to the project site would require an emergency vehicle access (EVA) off Linus Pauling Drive, which the project had already proposed (Draft EIR page 15-9--Fire Protection Emergency Response, Evacuation, and Access Impacts).

- L 9.20 Transportation and Circulation--Figures 16.4 and 16.7 (freeway lane configurations and peak-hour volumes)--Why would there be no increase in volume at the Willow Avenue/I-80 on- and off-ramps with the project? Not directly from the project, but wouldn't traffic from other developments switch to the Willow Avenue ramps?

Response: Consistent with the comment, a comparison of Figures 16.4 and 16.7 does show cumulative trip increases from non-project traffic (including ITC trips), but no increases from project traffic. Regarding the Hercules Bayfront Project traffic analysis's consistency and coordination with adopted local and regional traffic models, see response to comment L 3.05 and Draft EIR subsection 16.1.4.

- L 9.21 Transportation and Circulation--Mitigation 16-2 (Cumulative Plus Project Impacts on Intersection Operations)--How will bike and pedestrian traffic be handled with additional lanes?

Response: See response to comment L 9.06.

- L 9.22 Transportation and Circulation--Subsection 16.3.6 (Parking Analysis)--Does the parking analysis also include anticipated parking requirements for the ITC project?

Response: Please see Draft EIR subsection 16.3.6 (Parking Analysis). A lack of parking is not considered a physical, environmental impact under CEQA. Nevertheless, using the approved WDMP parking requirement ratios, the proposed Hercules Bayfront Project would provide more than its required amount of parking. Block K is currently being planned for a mixed-use building that will include public parking to accommodate the ITC.

- L 9.23 Transportation and Circulation--Different peak-hour assumptions were used in the Draft EIR traffic analysis (pp. 16-5 and 16-12). Does this affect any of the conclusions?

Response: No. In traffic analyses, "peak hour" is not necessarily a pre-selected time; it is the 60-minute period of highest traffic during the typical commute period (usually between 7 to 9 AM and 4 to 6 PM) for the selected study location. This methodology helps ensure that traffic impacts are not under-estimated at particular locations as well as throughout the study area.

- L 9.24 Project Description--The currently proposed project layout evaluated in the EIR is different from what was previously proposed. Please confirm that any changes would be fully evaluated by the Planning Commission.

Response: The comment pertains to the merits of the project, not to the content or adequacy of the Draft EIR. The Draft EIR project description information was provided by City of Hercules staff. This information included, in part, a series of applications submitted to the City by the project applicant, then reviewed and forwarded by City staff to the EIR consultants (see Draft EIR subsection 3.8.1--Requested City of Hercules Approvals). As described in Draft EIR chapter 1 (Introduction), the Final EIR must be certified before any action on project approval can be taken by the City. Final EIR certification is a separate process from project approval. More specific details of, or revisions to, the project design would be subsequent to Final EIR certification. In order for the certified Final EIR to apply to the project designs ultimately approved by the City, the City will need to ensure that the project designs do not exceed the maximum development standards and impact findings identified in the EIR.

- L 9.25 General EIR Comment--Are the terms "project sponsor" and "project applicant," as used in the Draft EIR, the same entity?

Response: Yes, the two terms are synonymous as used in the Draft EIR.

- L 9.26 Land Use and Planning--Table 12.4 (Under Construction, Recently Approved, and Pending Development Projects in Hercules)--Given that other projects may be delayed or potentially changed, the traffic impacts could be less than indicated, and the EIR represents the worse-case scenario, correct?

Response: Correct. The traffic analysis--as well as the rest of the Draft EIR analyses--was prepared with the most up-to-date, detailed information available at the time the analyses were conducted.

- L 9.27 Public Services and Utilities--Schools--Although not considered an environmental impact under the California Environmental Quality Act (CEQA), the Draft EIR

conclusion that public schools in Hercules are currently over-capacity, with no adopted School District plan to build a new school, should be a concern for the City.

Response: See response to comment PC 2.

- L 9.28 Transportation and Circulation--Given the impacts to various intersections, the City will need to develop plans to discourage through-traffic on local/neighborhood streets.

Response: The comment does not pertain to the content or adequacy of the Draft EIR. Consistent with the comment, many cities implement neighborhood transportation management plans, in part to discourage through traffic. As discussed in Draft EIR section 16.3 (Transportation and Circulation--Impacts and Mitigation Measures), no significant impacts on intersection operations would result under Existing Plus Project conditions. Under Cumulative Plus Project conditions, the project would contribute to significant cumulative impacts at five of the 14 study intersections, all of which can be mitigated to less-than-significant levels, except for the PM peak-hour impact at the San Pablo Avenue/Sycamore Avenue intersection.

- L 9.29 Transportation and Circulation--Parking (Draft EIR page 16-49)--The City should develop a parking policy to address potential parking issues in adjacent neighborhoods.

Response: The comment is referring to the Draft EIR finding on page 16-49, which states, "The remaining unmet parking demand (about 120 spaces) [during the peak demand period of a December afternoon] would likely shift to the adjacent neighborhoods, probably with one (or at most) two blocks of the project site." Also see response to comment L 9.22. Such a Hercules parking policy could be incorporated into a neighborhood transportation management plan (see response to comment L 9.28).

- L 9.30 Alternatives to the Proposed Project--Maximizing project density does not appear to be a project objective. The stated aesthetic and urban design purposes of the WDMP (Draft EIR page 4-4) include preserving and enhancing scenic views, and providing careful design review to maximize benefits of mixed-use development while minimizing its negative impacts. Decision-makers should balance density vs. impacts.

Response: "Maximizing project density" is not a project objective stated in the Draft EIR. As identified in Draft EIR subsection 3.3.3 (Hercules Waterfront District Master Plan), section 3.4 (Project Objectives), and the "Pertinent Plans and Policies" section of each environmental topic chapter, there are many project objectives and policies that City decision-makers would need to consider when deliberating on whether to approve the proposed Hercules Bayfront Project or some alternative to the project. However, related to project density/intensity, stated project objectives referring to a "transit-oriented neighborhood," "New Urbanism and Smart Growth," and implementation of the adopted WDMP would require a critical mass (density/intensity) of residents, workers, and visitors to implement these objectives consistent with the adopted WDMP. For one example, the Hercules Bayfront Project--as a transit-oriented development--would be expected to attract residents, employees, and visitors who would utilize the Intermodal Transit Center (ITC).

- L 9.31 Project Description--Subsection 3.5.5 (Proposed Circulation and Transit Components)--Should references to "Figure 3.6" instead be "Figure 3.8"?

Response: Yes. These typos have been corrected on EIR page 3-29 and are included in section 3.3 (Draft EIR Revisions) of this Final EIR. The corrections do not change the impact or mitigation conclusions of the Draft EIR.

- L 9.32 Land Use and Planning--Draft EIR Table 12.1 (Waterfront District Master Plan Build-Out Estimate Without Project) and page 12-7--Should the title instead be "Waterfront District Master Plan Without Project-Proposed Amendments"?

Response: As used in the Draft EIR, "project" and "project-proposed amendments" are synonymous. However, to match the title of otherwise identical Table 3.1, the title of Table 12.1 has been revised. The revised table is included in section 3.3 (Draft EIR Revisions) of this Final EIR. The revision does not change the impact or mitigation conclusions of the Draft EIR.

- L 9.33 Land Use and Planning--Draft EIR subsection 12.3.2--Should "Figure 3.5" reference instead be "Figure 3.6"?

Response: Yes. The typo has been corrected on EIR page 12-7 and is included in section 3.3 (Draft EIR Revisions) of this Final EIR. The correction does not change the impact or mitigation conclusions of the Draft EIR.

- L 9.34 Public Services and Utilities--Page 15-2--The order of items 1 through 6 should match the order of the subsequent subheadings.

Response: The list on page 15-2 is quoted directly from the City of Hercules Growth Management Element; therefore, its order cannot be changed. The order of topics in the subsequent CEQA analysis follows the sequence approved by City staff at the outset of the EIR analysis. In the interest of limiting the cost of the Final EIR (e.g., renumbering EIR sections and cross-references, preparing and printing revised pages), the requested revision has not been made, especially since the change would not change the setting, impact, or mitigation conclusions of the Draft EIR.

- L 9.35 Transportation and Circulation--Page 16-1 (third paragraph)--The sentence should read "Caltrans began..." instead of "Caltrans plans to begin...".

Response: The sentence has been updated. Revised page 16-1 is included in section 3.3 (Draft EIR Revisions) of this Final EIR. The update does not change the impact or mitigation conclusions of the Draft EIR.

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



March 4, 2011

Dennis Tagashira
Planning Director
City of Hercules
111 Civic Drive
Hercules, CA 94547

Re: Notice of Completion, Draft Environmental Impact Study (DEIR)
Hercules Bayfront Project
SCH# 2009112058

Dear Mr. Tagashira:

As the state agency responsible for rail safety within California, the California Public Utilities Commission (CPUC or Commission) recommends that development projects proposed near rail corridors be planned with the safety of these corridors in mind. New developments and improvements to existing facilities may increase vehicular traffic volumes, not only on streets and at intersections, but also at at-grade highway-rail crossings. In addition, projects may increase pedestrian traffic at crossings, and elsewhere along rail corridor rights-of-way. Working with CPUC staff early in project planning will help project proponents, agency staff, and other reviewers to identify potential project impacts and appropriate mitigation measures, and thereby improve the safety of motorists, pedestrians, railroad personnel, and railroad passengers.

The traffic impact study within the traffic/circulation section of the DEIR *failed* to specifically consider safety issues to the railroad corridor that bounds this 42.36 acre site. In addition to the potential impacts of the proposed project itself, the DEIR *failed* to consider cumulative rail safety-related impacts created by other projects. (Reference CPUC NOP comment letter dated 12/16/09).

L 10.01

L 10.02

In general, the major types of impacts to consider are collisions between trains and vehicles, and between trains and pedestrians. The proposed project has the potential to increase vehicular and pedestrian traffic in the vicinity.

Measures to reduce adverse impacts to rail safety need to be considered in the DEIR. General categories of such measures include:

L 10.03

- Installation of grade separations at crossings, i.e., physically separating roads and railroad track by constructing overpasses or underpasses
- Improvements to warning devices at existing highway-rail crossings
- Installation of additional warning signage

Dennis Tagashira
City of Hercules
SCH # 2009112058
March 4, 2011
Page 2 of 2

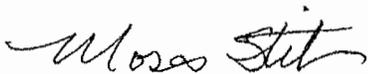
- Improvements to traffic signaling at intersections adjacent to crossings, e.g., traffic preemption
- Installation of median separation to prevent vehicles from driving around railroad crossing gates
- Prohibition of parking within 100 feet of crossings to improve the visibility of warning devices and approaching trains
- Installation of pedestrian-specific warning devices and channelization and sidewalks
- Construction of pull out lanes for buses and vehicles transporting hazardous materials
- Installation of vandal-resistant fencing or walls to limit the access of pedestrians onto the railroad right-of-way
- Elimination of driveways near crossings
- Increased enforcement of traffic laws at crossings
- Rail safety awareness programs to educate the public about the hazards of highway-rail grade crossings

Commission approval is required to modify an existing highway-rail crossing or to construct a new crossing.

Please forward any additional analysis of the rail corridor that we may have over looked in the DEIR, otherwise a supplemental analysis would be required to complete CEQA requirements for the determination of level of significance and applicable mitigation measures to the rail corridor.

Thank you for your consideration of these comments. If you have any questions in this matter, please contact me at (415) 713-0092 or email at ms2@cpuc.ca.gov.

Sincerely,



Moses Stites
Rail Corridor Safety Specialist
Consumer Protection and Safety Division
Rail Transit and Crossings Branch
180 Promenade Circle, Suite 115
Sacramento, CA 95834-2939

L 10 Moses Stites, Rail Corridor Safety Specialist, Consumer Protection and Safety Division, Rail Transit and Crossings Branch, State of California Public Utilities Commission; March 4, 2011--received March 7, 2011 (2 pages)

- L 10.01 Transportation and Circulation--The Draft EIR failed to specifically consider safety issues to the railroad corridor that bounds the project site.

Response: The City appreciates the information provided by the PUC on this issue. However, as illustrated in the Draft EIR graphics (see especially Figure 3.5 and Figure 4.7) and described in Draft EIR section 3.6 (Shared Facilities), there would be no roadway or pedestrian crossings with the railroad tracks, except for a gated emergency vehicle access (EVA) between project Blocks E and G. In addition, the entire length of the northern project boundary parallel with the railroad tracks would be grade-separated from the railroad tracks by a retaining wall, except for the EVA and the outlet of Refugio Creek. These rail safety components are considered "shared facilities" with the Intermodal Transit Center (ITC) project, as explained in EIR section 3.6; if the Hercules Bayfront Project precedes the ITC project, the Bayfront Project would construct these components. Applicable PUC jurisdictional requirements related to the proposed project also would be implemented.

- L 10.02 Transportation and Circulation--The Draft EIR failed to consider cumulative rail safety-related impacts created by other projects.

Response: See response to comment L 10.01.

- L 10.03 Transportation and Circulation--Measures to reduce adverse impacts to rail safety are listed.

Response: See response to comment L 10.01.

El Cerrito

February 28, 2011

Hercules

Mr. Robert Reber
Planning Department
City of Hercules
111 Civic Drive
Hercules CA 94547

Pinole

RE: Comment on Hercules Bayfront Project Draft Environmental Impact Report

Dear Robert:

Richmond

Thank you for the opportunity to review subject document. WCCTAC is a joint exercise of powers authority comprised of the cities of El Cerrito, Hercules, Pinole, Richmond, and San Pablo, the County, and the three transit agencies that serve the area. WCCTAC's charge is to attend to the goals, objectives and actions specified in the adopted 2009 West County Action Plan for Routes of Regional Significance. To this end, we have the following comments:

San Pablo

- The proposed project advances the region's objectives of compact, mixed-use development and encouraging transit use and biking and walking. It is important to ensure that the project does not proceed without the supporting transit and pedestrian and bicycle infrastructure that are assumed in the analysis, including the construction of the Hercules Intermodal Transit Center. L 11.01
- We are concerned about the significant and unavoidable impact at the intersection of San Pablo and Sycamore Avenues under cumulative with project conditions. While we support the objectives of the project, we urge the City to either further investigate transit, pedestrian and bicycle, and transportation demand management improvements that may mitigate this impact to less-than-significant, or else reduce the intensity of the project to achieve the same. L 11.02

Contra Costa
County

AC Transit

BART

Please feel free to contact me if you have any questions regarding our comments.

WestCAT

Sincerely,



Christina M. Atienza
Executive Director

L 11 Christina M. Atienza, Executive Director, West Contra Costa Transportation Advisory Committee (WCCTAC); February 28, 2011--received March 7, 2011 (1 page)

- L 11.01 Transportation and Circulation--The proposed project advances the region's objectives of compact, mixed-use development and the encouragement of transit use, biking, and walking. It is important to ensure that the project does not proceed without the supporting transit, pedestrian, and bicycle infrastructure assumed in the Draft EIR analysis, including the Intermodal Transit Center (ITC) project.

Response: As described in Draft EIR chapter 3 (Project Description), especially subsection 3.3.5 (Intermodal Transit Center [ITC] Project), the ITC project is anticipated to begin construction prior to the Hercules Bayfront Project. The ITC project would include a bus terminal (served by WestCAT), a new Amtrak Capitol Corridor commuter train stop, parking for transit passengers, and other infrastructure necessary to support the facility. As noted in Draft EIR section 3.4 (Project Objectives), "The Hercules Bayfront Project is intended to implement the Hercules General Plan and WDMP through development of a transit-oriented, mixed-use neighborhood next to the ITC project."

- L 11.02 Transportation and Circulation--The City should further investigate transit, pedestrian, bicycle, and transportation demand management (TDM) improvements that may mitigate the identified significant unavoidable cumulative impact at the San Pablo Avenue/Sycamore Avenue intersection, or else reduce the project intensity.

Response: No feasible additional mitigation has been identified that would mitigate the identified PM peak-hour impact to a less-than-significant level (see Impact/Mitigation 16-2). If the EIR is certified by the City of Hercules, the City must balance the benefits of the project against its significant unavoidable environmental impacts, pursuant to CEQA Guidelines section 15093 (Statement of Overriding Considerations), when determining whether to approve the project.



CITY OF PINOLE

2131 Pear Street
Pinole, CA 94564

Tel: (510) 724-8912
Fax: (510) 724-4921

March 7, 2011

City of Hercules
Attention: Dennis Tagashira, Planning Director
111 Civic Drive
Hercules, CA 94547
Via Email: dtagashira@ci.hercules.ca.us

RE: Draft Environmental Impact Report for Hercules Bayfront Project

Dear Mr. Tagashira:

The City of Pinole appreciates the opportunity to review the Draft Environmental Impact Report (DEIR) for the Hercules Bayfront Project.

The City of Pinole has several concerns about the environmental analysis for this project.

Transportation and Circulation

The Draft EIR included no analysis of San Pablo Avenue intersections within Pinole closest to our shared boundary and no justification for the selected trip distribution amount utilizing the portion of San Pablo Avenue southwest of the project. The City remains concerned about through traffic on this route of regional significance generated by Hercules development that impacts transportation service levels within the City of Pinole. Consequently, the City of Pinole requests that the EIR analyze the transportation impacts of the project on the signalized intersections of San Pablo Avenue at Pinole Valley Road and San Pablo Avenue at Tennent Avenue to provide the extent to which these intersections will be adversely impacted by the project.

L 12.01

The DEIR describes worsening traffic conditions on I-80 facilities including the I-80 interchange at Pinole Valley Road. The Draft EIR suggests only one feasible mitigation measure to encourage greater utilization of the 511 Contra Costa Transportation Demand Management Program. The City of Pinole requests that additional mitigation measures be included within the EIR to support transit utilization and bicycle ridership for local trips. For example, the project should be required to contribute impact fees to improve the Regional Bay Trail to encourage bicycle rather than auto travel between Hercules and Pinole.

L 12.02

L 12

The City of Hercules is currently processing several significant development projects (e.g. the Intermodal Transit Center and Chelsea Wetlands restoration) that will generate construction traffic. The City of Pinole requests that this project EIR include a mitigation measure that requires all construction traffic to take access to and from the freeway within the City of Hercules.

L 12.03

Public Services and Utilities Wastewater

The EIR correctly points out that the wastewater collected is treated at the Pinole/Hercules Wastewater Plant. However, the EIR incorrectly states that the dry weather capacity of the treatment plant is 4.06 Million Gallons per Day. The current dry weather capacity of the treatment plant is 3.52 Million Gallons per Day. The City of Pinole staff requests that Hercules contact the City prior to publishing capacity and operational assumptions or evaluating if the plant in its current configuration is adequate for a given project in order to ensure accurate environmental analysis. Additionally, the EIR mentions that Hercules is studying other options for long-term wastewater treatment. For the sake of this EIR, the other options are speculative at this time since an alternative treatment system has not been analyzed to assess financial as well as environmental feasibility of alternatives or likely timeframe for construction of alternatives. The City of Pinole suggests that the wastewater development impact fees be reserved for improvements at the existing shared Wastewater Plant to defray the costs associated with long-term treatment of wastewater generated by the proposed project.

L 12.04

L 12.05

Additionally, the Draft EIR contains no analysis of cumulative wastewater demand which is needed to ensure that the EIR accurately describes the impact of the project on wastewater service. This analysis needs to compare shared plant capacity with current flows at the plant, plus previously approved projects, timetables for those project, and expected project flows. Without this analysis, it is unclear how the City of Hercules intends to provide wastewater service to the proposed project. Assuming that the shared wastewater plant will treat the wastewater from the proposed project, the City of Pinole requests that a mitigation measure be added requiring that staff from the Pinole/Hercules Water Pollution Control Plant review future non-residential building permit requests prior to any construction to assure that proper grease trap and other devices are constructed.

L 12.06

Again, thank you for the opportunity to comment on this Draft EIR. If you have any questions about this letter, please contact Planning Manager Winston Rhodes by phone at (510) 724-9832 or via email at wrhodes@ci.pinole.ca.us.

Sincerely,



Belinda B. Espinosa, City Manager

CC: City Council

L 12 Belinda B. Espinosa, City Manager, City of Pinole; March 7, 2011 (2 pages)

- L 12.01 Transportation and Circulation--The Draft EIR includes no analysis of San Pablo Avenue intersections within Pinole and no justification for the selected trip distribution amount utilizing the portion of San Pablo Avenue southwest of the project. The City of Pinole requests that the EIR analyze the project traffic impacts at the San Pablo Avenue/Pinole Valley Road and San Pablo Avenue/Tennent Avenue intersections.

Response: See response to comment L 3.02, part of which is repeated here. The Intermodal Transit Center (ITC) EIR/EIS, whose transit center and parking facilities would be located within the Hercules Bayfront Project area, analyzed impacts at the two intersections identified by the City of Pinole. The ITC EIR/EIS (section 4.1--Traffic and Transportation Systems) analyzed a Future Baseline scenario (i.e., not including the ITC project), which incorporated traffic expected to be generated by the proposed Hercules Bayfront Project (the ITC and Hercules Bayfront traffic analyses were coordinated between their respective traffic engineering consultants), "background growth that is likely to occur in the vicinity of the project," and "the traffic expected to be generated by other projects approved by the City or reasonably expected to occur prior to construction of the proposed [ITC] project" As required by the National Environmental Policy Act (NEPA) for the ITC EIR/EIS, this particular scenario assumes that the Hercules Bayfront Project would be in operation, but the ITC project would not; this NEPA-required scenario is analogous to the "No Project" alternative required under the California Environmental Quality Act (CEQA) (i.e., Hercules Bayfront Project EIR).

Under the ITC EIR/EIS Future Baseline scenario (including the proposed Hercules Bayfront Project), the San Pablo Avenue/Pinole Valley Road intersection would operate at Level of Service (LOS) A in the AM peak hour and LOS A in the PM peak hour. Under the same scenario, the San Pablo Avenue/Tennent Avenue intersection would operate at LOS B in the AM peak hour and LOS C in the PM peak hour. Based on Contra Costa Transportation Authority (CCTA) operating criteria, all of these levels of service are considered acceptable, and no mitigation would be required at the two subject intersections.

In its comment letter (dated November 5, 2010) to the City of Hercules on the Draft ITC EIR/EIS, the City of Pinole acknowledged that "there were no measurable [ITC] project impacts" to the intersections of San Pablo Avenue/Pinole Valley Road and San Pablo Avenue/Tennent Avenue under the Future Baseline Condition (including the proposed Hercules Bayfront Project) with the addition of the ITC project traffic. Therefore, with the information presented above, it can reasonably be concluded that the Hercules Bayfront Project would not result in a significant impact at the two subject intersections.

- L 12.02 Transportation and Circulation--The City of Pinole requests that the EIR include additional mitigation measures to support transit utilization and bicycle ridership. For example, the project should be required to contribute impact fees to improve the Regional Bay Trail.

Response: As described in Draft EIR chapter 3 (Project Description)--especially subsection 3.5.5 (Proposed Project Circulation and Transit Components), subsection

3.5.7 (Proposed Project Civic Space and Park and Recreational Components), and section 3.6 (Shared Facilities)--the proposed project includes numerous coordinated and integrated components that support transit utilization and bicycle ridership. Regarding the Bay Trail, the Hercules Bayfront Project would construct the entire Bay Trail connection between Pinole and the Bio-Rad property, totaling approximately 5,900 feet in length, should the Bayfront Project precede the ITC project. This Bay Trail connection is described in Draft EIR section 3.6 (Shared Facilities--Bay Trail and Waterfront Promenade).

- L 12.03 Transportation and Circulation--The City of Pinole requests that the EIR include a mitigation measure that requires all construction traffic to take access to and from the freeway within the City of Hercules.

Response: Most construction-related traffic is expected to access I-80 via John Muir Parkway because this is the most direct route to/from the freeway. Also, as explained in the response to comment L 12.01, the study intersections in Pinole would operate under acceptable conditions with the Hercules Bayfront Project and other approved and reasonably foreseeable projects. No traffic mitigation at these intersections would be necessary, including a requirement for all construction traffic to take access to and from the freeway within the City of Hercules. Requiring such a mitigation would violate the CEQA Guidelines nexus requirement (CEQA Guidelines section 15041--Authority to Mitigate). Also see response to comment L 9.05.

- L 12.04 Public Services and Utilities--Wastewater--The EIR incorrectly states that the dry weather capacity of the Pinole/Hercules Wastewater Plant is 4.06 million gallons per day (mgd); the capacity is currently 3.52 mgd.

Response: The source of the 4.06 million gallon per day capacity for the Pinole-Hercules Wastewater Treatment Plant (PHWTP) was the EBMUD Urban Water Management Plan 2005, with the information provided to the EIR consultant by the City of Hercules Contract City Engineer (see footnote #1 on page 15-28). Additionally, the City of Pinole's website for the PHWTP (http://www.ci.pinole.ca.us/publicworks/treat_plant.html) notes a capacity of 4.06 million gallons per day (mgd). Since the publication of the Draft EIR, Hercules staff has learned that the dry weather capacity of the PHWTP has been revised from 4.06 mgd to 3.52 mgd. This updated information has been added to page 15-27 of the EIR (see section 3 of this Final EIR). This new information does not change the impact or mitigation findings of the EIR.

As described in Draft EIR subsection 15.7.4 (Wastewater--Impacts and Mitigation Measures), while expected to generate approximately 220,560 gpd of wastewater at full project buildout, the proposed project would contribute up to approximately \$6.24 million in Development Impact Fees toward future wastewater collection and treatment facilities.

- L 12.05 Public Services and Utilities--Wastewater--The EIR mentions that Hercules is studying other options for long-term wastewater treatment; such other options are speculative and have not been analyzed. The City of Pinole suggests that wastewater development impact fees be reserved for improvements to the existing wastewater plant shared by Hercules and Pinole.

Response: The reference to “other options” in the Draft EIR has been removed and replaced with new information that became available after the Draft EIR was published. On August 9, 2011, the Hercules City Council unanimously adopted a resolution (a) affirming the City of Hercules’s commitment to continue to treat the City’s wastewater at the Pinole-Hercules Wastewater Treatment Plant and (b) confirming the City’s intent to share in the cost of the plant expansion and upgrades with the City of Pinole, subject to further joint analysis and discussions of those improvements. This revised information has been added to page 15-29 of the EIR (see section 3 of this Final EIR). The revised information does not change the impact or mitigation findings of the EIR.

- L 12.06 Public Services and Utilities--Wastewater--The Draft EIR contains no analysis of cumulative wastewater demand. Assuming that the shared wastewater plant will treat wastewater from the proposed project, the City of Pinole requests that a mitigation measure be added requiring that staff from the plant review future non-residential building permit requests prior to any construction.

Response: Draft EIR subsection 15.7.4 (Wastewater--Impacts and Mitigation Measures) consolidates “Project and Cumulative Wastewater Collection and Treatment Impacts” (see heading in subsection) because wastewater collection and treatment are inherently cumulative issues that require a cumulative perspective. As requested in the comment, the City of Hercules will coordinate with staff from the PHWTP to review non-residential building permit requests prior to construction to assure that proper grease trap and other devices are constructed.

As described in Draft EIR subsection 15.7.4 (Wastewater--Impacts and Mitigation Measures), while expected to generate approximately 220,560 gpd of wastewater at full project buildout, the proposed project would contribute up to approximately \$6.24 million through the wastewater Development Impact Fee (DIF). The DIF is mandatory for all new development in Hercules and is targeted toward improving both local and systemwide wastewater collection and treatment facilities. The City of Hercules is responsible for appropriately allocating and monitoring these funds.

DEPARTMENT OF TRANSPORTATION

111 GRAND AVENUE
 P. O. BOX 23660
 OAKLAND, CA 94623-0660
 PHONE (510) 622-5491
 FAX (510) 286-5559
 TTY 711



MAR 10 2011

*Flex your power!
 Be energy efficient!*

March 7, 2011

CCGEN015
 SCH #2009112058

Mr. Dennis Tagashira
 City of Hercules
 111 Civic Drive
 Hercules, CA 94547

Dear Mr. Tagashira:

Hercules Bayfront Project – Draft Environmental Impact Report (DEIR)

Thank you for continuing to include the California Department of Transportation (Department) in the environmental review process for the Hercules Bayfront Project. The following comments are based on the DEIR. As the lead agency, the City of Hercules is responsible for all project mitigation, including any needed improvements to state highways. The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures. This information should also be presented in the Mitigation Monitoring and Reporting Plan of the environmental document. Required roadway improvements should be completed prior to issuance of the Certificate of Occupancy. Since an encroachment permit is required for work in the State right of way (ROW), and the Department will not issue a permit until our concerns are adequately addressed, we strongly recommend that the City of Hercules work with both the applicant and the Department to ensure that our concerns are resolved during the environmental process, and in any case prior to submittal of a permit application. Further comments will be provided during the encroachment permit process; see the end of this letter for more information regarding encroachment permits.

L 13.01

Highway Operations

- Page 2-62 and Page 16-32; Mitigation 16-1. If one additional lane at westbound Interstate 80 (I-80) John Muir Parkway off-ramp will mitigate the traffic impact, the project sponsor should contribute fair share fees toward the future improvement of this ramp. In addition, please provide information regarding the projected queue lengths. Will the queue from the off-ramp impact the westbound I-80 mainline? L 13.02
- Page 2-66 to 2-68, Impact 16-3. The Department does not support the finding of a "Significant and unavoidable environmental impact" on I-80 mainline. At a minimum, L 13.03

the project sponsor should contribute fair share fees toward the cost of future highway improvements in the area.

- Page 16-42, Mitigation 16-2, (b). The widening of northbound San Pablo Avenue/John Muir Parkway “will require widening of I-80 westbound on-ramp from one to two lanes.” Please involve the Department early in the project development process to avoid any delays to the project.

L 13.04

Cultural Resources

Should there be impacts within State ROW as part of this project, an historic built environment survey would need to be updated. Also an archaeological assessment of sites within or adjacent to State ROW would need to be prepared and sent to the Department.

L 13.05

Community Planning

In order to lessen potential traffic impacts on the state highways, the City should consider various measures for reducing the motorized vehicle trip generation from this project. These measures could include improving public transit, bicycling, and pedestrian facilities; instituting a Transportation Demand Management (TDM) Program in which residents at the project site have transit passes included in their rent/Homeowner Associationⁱ; and reducing the parking requirementsⁱⁱ.

L 13.06

Please consider developing and applying pedestrian, bicycling and transit performance or quality of service measures and modeling or estimating pedestrian, bicycle and transit trips that your project will generate so that impacts and mitigation measures can be assessed. In addition, analyze secondary impacts on pedestrians and bicyclists that may result from any traffic impact mitigation measures. Describe any pedestrian and bicycle mitigation measures and safety countermeasures that would therefore be needed as a means of maintaining and improving access to transit facilities and reducing traffic impacts on state highways.

Encroachment Permit

Please be advised that any work or traffic control that encroaches onto the State ROW requires an encroachment permit that is issued by the Department. To apply, a completed encroachment permit application, environmental documentation, and five (5) sets of plans clearly indicating State ROW must be submitted to the address below. Traffic-related mitigation measures should be incorporated into the construction plans during the encroachment permit process. See the website link below for more information.

L 13.07

<http://www.dot.ca.gov/hq/traffops/developserv/permits/>

Michael Condie, District Office Chief
Office of Permits
California DOT, District 4
P.O. Box 23660
Oakland, CA 94623-0660

ⁱ http://www.mtc.ca.gov/planning/smart_growth/tod/t4t.htm

ⁱⁱ http://www.mtc.ca.gov/planning/smart_growth/parking_study.htm

Mr. Dennis Tagashira
March 7, 2011
Page 3

L 13

Please feel free to call or email Luis Melendez of my staff at (510) 286-5606 or Luis_Melendez@dot.ca.gov with any questions regarding this letter.

Sincerely,



for LISA CARBONI
District Branch Chief
Local Development – Intergovernmental Review

c: State Clearinghouse

L 13 Lisa Carboni, District Branch Chief, Local Development--Intergovernmental Review, State of California Department of Transportation; March 7, 2011--received March 10, 2011 (3 pages)

- L 13.01 Transportation and Circulation--The comment lists various standard Caltrans recommendations, including those related to encroachment requirements. Also, the comments notes, "The project's fair share contribution, financing, scheduling, implementation responsibilities, and lead agency monitoring should be fully discussed for all proposed mitigation measures. This information should also be presented in the Mitigation Monitoring and Reporting Plan of the environmental document."

Response: Although this comment letter arrived after the close of the Draft EIR comment period, the City has provided responses for informational purposes. The proposed project would implement all applicable, mandatory Caltrans requirements. The Draft EIR traffic mitigations for the project impacts on freeway operations (Caltrans facilities) do identify fair share contributions (Impacts/Mitigations 16-1 and 16-3). Project fair share contributions would be required if a fair share program, including a fee structure, is adopted by Caltrans or the CCTA. Specific details of such a potential fair share program cannot accurately be specified until improvement designs, costs, and necessity are determined in the future as detailed project components are proposed for construction and operation. Mitigations 16-1 and 16-3 will be included in the Hercules Bayfront Project Mitigation Monitoring and Reporting Program.

- L 13.02 Transportation and Circulation--Mitigation 16-1 (Existing Plus Project Impacts on Freeway Facilities Operations)--The project sponsor should contribute fair share fees toward the future improvement of the westbound I-80/John Muir Parkway off-ramp. Please provide information regarding the necessary queue lengths.

Response: See response to comment L 13.01. Widening the off-ramp at this location would also require widening the freeway mainline, which is considered infeasible due to substantial existing physical, cost, and jurisdictional constraints (see Draft EIR Mitigation 16-1). The City is unaware of any Caltrans or CCTA plans for widening the I-80 mainline to the John Muir Parkway off-ramp. As indicated on Draft EIR Figure 16.7 (Cumulative Freeway Lane Configurations and Peak-Hour Volumes), this off-ramp is expected to carry approximately 392 vehicles during the AM peak hour, and about 708 vehicles in the PM peak hour, in the year 2035 with the project. Generally, additional lanes are not added to off-ramps unless the off-ramp peak-hour demand increases to over 1,500 vehicles.

- L 13.03 Transportation and Circulation--Mitigation 16-3 (Cumulative Plus Project Impacts on Freeway Operations)--Caltrans does not support the finding of "significant and unavoidable impact" on the I-80 mainline. At a minimum, the project sponsor should contribute fair share fees toward the cost of future highway improvements in the area.

Response: See response to comment L 13.01. The I-80 corridor through Alameda and Contra Costa counties operates at capacity for several hours during the day. Draft EIR Mitigation 16-3 finds that the proposed project would contribute considerably to this already existing condition. Residents and businesses currently contribute sales tax in Contra Costa County toward transportation improvements, including freeway improvements on the I-80 corridor. Property in the County is also assessed to help

fund BART, which is a viable alternative to freeway use in the Bay Area. Pursuant to CEQA, Mitigation 16-3 concludes that the impact would be significant and unavoidable for the reasons stated in the mitigation and in response to comment L 13.01.

- L 13.04 Transportation and Circulation--Mitigation 16-2(b) (Cumulative Plus Project Impacts on Intersection Impacts)--Please involve Caltrans early in the project development process if the San Pablo Avenue/John Muir Parkway I-80 westbound on-ramp is widened.

Response: Comment acknowledged. The City will coordinate the improvement plans, scheduling, and construction with Caltrans.

- L 13.05 Cultural and Historic Resources--Any impacts to the State right-of-way would require an updated historic built environment survey and an archaeological assessment.

Response: Comment acknowledged. Draft EIR Mitigations 8-1 (Disturbance of Archaeological Resources) and 8-3 (Destruction/Degradation of Paleontological Resources) address the comment. The proposed project would implement all applicable, mandatory Caltrans requirements.

- L 13.06 Transportation and Circulation--The City should consider measures for reducing motorized vehicle trip generation from the project. Please consider developing and applying pedestrian, bicycling, and transit performance measures, as well as identifying secondary project impacts on pedestrians and bicyclists resulting from traffic mitigations.

Response: As described in Draft EIR chapter 3 (Project Description)--especially subsection 3.5.5 (Proposed Project Circulation and Transit Components), subsection 3.5.7 (Proposed Project Civic Space and Park and Recreational Components), and section 3.6 (Shared Facilities)--the proposed project includes numerous coordinated and integrated components that support walking, bicycling, and transit use. For example, the Hercules Bayfront Project would construct the entire Bay Trail connection between Pinole and the Bio-Rad property, totaling approximately 5,900 feet in length, should the Bayfront Project precede the ITC project.

Draft EIR Mitigation 16-3 (Cumulative Plus Project Impacts on Freeway Operations) would require all project homeowners associations and employees to participate in the 511 Contra Costa Transportation Demand Management (TDM) Program.

Draft EIR subsection 16.3.5 (Alternative Mode Transportation System Impacts) discusses potential impacts on pedestrians and bicyclists, and concludes that the one identified significant impact (Impact 16-4: Potential Bicycle Lane Gap on John Muir Parkway) could be mitigated to a less-than-significant level.

- L 13.07 Transportation and Circulation--Any work or traffic control that encroaches onto the State right-of-way requires an encroachment permit issued by Caltrans.

Response: Comment acknowledged. The proposed project would implement all applicable, mandatory Caltrans requirements.



JERRY BROWN
GOVERNOR

STATE OF CALIFORNIA
GOVERNOR'S OFFICE of PLANNING AND RESEARCH
STATE CLEARINGHOUSE AND PLANNING UNIT

~~PAID~~
RECEIVED
MAR 09 2011



L 14

March 8, 2011

Dennis Tagashira
City of Hercules
111 Civic Drive
Hercules, CA 94547

Subject: Hercules Bayfront Project
SCH#: 2009112058

Dear Dennis Tagashira:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on March 7, 2011, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

L 14.01

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Scott Morgan
Director, State Clearinghouse

Enclosures
cc: Resources Agency

**Document Details Report
State Clearinghouse Data Base**

L 14

SCH# 2009112058
Project Title Hercules Bayfront Project
Lead Agency Hercules, City of

Type EIR Draft EIR
Description The project applicant, Hercules Bayfront LLC, is proposing to develop 42.36 acres within the Historic Town Center and Transit Village subdistricts of the Hercules Waterfront District Master Plan (WDMP) with a transit-oriented, mixed-used project that includes a variety of dwelling types and businesses, and a system of streets, pedestrian interconnections and public plazas.

Lead Agency Contact

Name Dennis Tagashira
Agency City of Hercules
Phone (510) 799-8243 **Fax**
email
Address 111 Civic Drive
City Hercules **State** CA **Zip** 94547

Project Location

County Contra Costa
City Hercules
Region
Lat / Long
Cross Streets Sycamore, John Muir Parkway, Bayfront, Railroad

Parcel No.	Township	Range	Section	Base
-------------------	-----------------	--------------	----------------	-------------

Proximity to:

Highways Hwy 4 and I-80
Airports No
Railways UPRR and BNSF
Waterways San Pablo Bay, Refugio Creek
Schools Western Contra Coasta & John Swett USD, Hanna Ranch, Ohlone
Land Use Historic Town Center (HTC), Planned Commercial-Residential (PC-R) and Residential Single Family Low (RS-L).

Project Issues Air Quality; Noise; Biological Resources; Archaeologic-Historic; Toxic/Hazardous; Water Quality; Geologic/Seismic; Aesthetic/Visual; Population/Housing Balance; Public Services; Cumulative Effects; Other Issues; Drainage/Absorption; Economics/Jobs; Flood Plain/Flooding; Recreation/Parks; Schools/Universities; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Traffic/Circulation; Vegetation; Water Supply; Wetland/Riparian; Wildlife; Growth Inducing; Landuse

Reviewing Agencies Resources Agency; Department of Fish and Game, Region 3; Department of Parks and Recreation; San Francisco Bay Conservation and Development Commission; Department of Water Resources; Office of Emergency Management Agency, California; California Highway Patrol; Department of Housing and Community Development; Regional Water Quality Control Board, Region 2; Department of Toxic Substances Control; Native American Heritage Commission; Public Utilities Commission; State Lands Commission; Caltrans, District 4

Date Received 01/20/2011 **Start of Review** 01/20/2011 **End of Review** 03/07/2011

Note: Blanks in data fields result from insufficient information provided by lead agency.

L 14 Scott Morgan, Director, State Clearinghouse, State of California Governor's Office of Planning and Research; March 8, 2011 (2 pages)

- L 14.01 General EIR Comment--The letter acknowledges that the City has complied with State Clearinghouse requirements for draft environmental documents, pursuant to CEQA.

Response: Comment acknowledged. No further response is required.

3. DRAFT EIR REVISIONS

The following section includes all revisions to the Draft EIR made in response to comments received during the Draft EIR comment period. All text revisions are indicated by a bracket in the left margin next to the revised line(s). All of the revised pages supersede the corresponding pages in the January 2011 Draft EIR. None of the criteria listed in CEQA Guidelines section 15088.5 (Recirculation of an EIR Prior to Certification) indicating the need for another recirculation of the January 2011 Draft EIR has been met as a result of the revisions which follow. In particular:

- no new significant environmental impact due to the project or due to a new mitigation measure has been identified;
- no substantial increase in the severity of an environmental impact has been identified; and
- no additional feasible project alternative or mitigation measure considerably different from others previously analyzed in the Draft EIR has been identified that would clearly lessen the significant environmental impacts of the project.

This section also includes corrections of typographical errors in the Draft EIR discovered during preparation of this Responses to Comments document, and are not the result of responses to comments. In addition, several mitigation measures have been reworded to maintain internal EIR consistency and to clarify the interrelationships between various mitigation measures. None of the criteria in CEQA Guidelines section 15088.5 indicating the need for recirculation of the Draft EIR has been met as a result of these revisions.

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individuals in response to the City's Notice of Preparation. These environmental concerns include (listed in the order that these topics are identified in the CEQA Guidelines and addressed in this EIR):

1. Aesthetics,
2. Air quality,
3. Biological resources,
4. Climate change,
5. Cultural and historic resources,
6. Geology and soils,
7. Hazards and hazardous materials,
8. Hydrology and water quality,
9. Land use and planning,
10. Noise,
11. Population and housing,
12. Public services and utilities, and
13. Transportation and circulation.

1.4 IMPACT ASSESSMENT BASELINE

CEQA Guidelines section 15125(a) and (e) stipulate that the environmental conditions in the project vicinity at the time the environmental analysis is begun--i.e., the date the City's Notice of Preparation was released--should constitute the baseline physical conditions by which it is determined whether an impact is significant. Pursuant to this guideline, all impact assessments in this EIR are based on comparison of the projected future "with project" conditions (i.e., full development of the proposed project) with the existing environmental conditions in November 2009 (NOP release date), rather than with the future "without project" conditions (i.e., buildout under existing General Plan/zoning). For a generalized comparison of anticipated future "with project" conditions with future "without project" conditions (i.e., with what would be expected to occur in the foreseeable future if the project were not approved--i.e., under current General Plan/zoning), see the discussion of Alternative 19.2, Current General Plan/Zoning Ordinance Scenario--Reduced Development Totals No Project--Waterfront District Master Plan (WDMP) Scenario Without Project Proposed Amendments, in chapter 19 of this EIR (Alternatives to the Proposed Project).

1.5 KEY EIR TERMINOLOGY

The term "Hercules Bayfront Project" and the CEQA term "project" are used interchangeably in this EIR, and are defined to mean: (1) the overall "ground-up" development program for the 42.36-acre Hercules Bayfront Project site; (2) the set of project applications submitted by Hercules Bayfront, LLC, proposing amendments to the City's General Plan, WDMP, Zoning Ordinance, and Hercules Bayfront Project Development Agreement; and (3) all associated subsequent City and State approvals, entitlements, and permits that may be required to implement the project.

This EIR identifies those adverse environmental impacts associated with the project that are expected to be "significant," and corresponding mitigation measures warranted to eliminate or

reduce those impacts to less-than-significant levels. Where it is determined in this EIR that a particular impact cannot be mitigated to a less-than-significant level, the EIR identifies that

**Table 2.1
 SUMMARY OF IMPACTS AND MITIGATION MEASURES**

Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
AESTHETICS				
Impact 4-1: Project Impacts on Scenic Vistas. The proposed project site plan (Figure 3.6 in chapter 3) includes an internal network of plazas that would preserve and provide public access to selected views of Hercules Point and San Pablo Bay, as called for in the WDMP. The proposed project site plan also includes block configurations and a roadway layout that would extend some existing adjacent north-south neighborhood streets into the project site, thereby preserving "framed" Bay vistas from these existing roadway approaches (e.g., Railroad Avenue approach to Bayfront Boulevard and Sanderling Drive approach to Bayfront Boulevard). Nevertheless, existing views of the Bay and Refugio Creek corridor from the promontory area within the project site (Blocks A, C ₁ , C ₂ and C ₃) would be potentially obscured by introduced project structures and landscaping. The proposed layout would also substantially constrain or block existing Bay vistas from a number of other existing north-south approaches to the project site (e.g., Viewpoint 1: Main Street approach at Railroad Avenue, Viewpoint 2: Railroad Avenue approach at Sycamore Avenue, and Viewpoint	S			
		Mitigation 4-1: The applicant could be required to modify the proposed project layout and roadway grid to more effectively preserve and feature additional existing Bay vistas, including existing vistas from the Main Street approach to Railroad Avenue (Viewpoint 1), the Railroad Avenue approach at Sycamore Avenue (Viewpoint 2), and the Promenade Street approach to Bayfront Boulevard (Viewpoint 4, which would also be impacted by the ITC project). City and applicant agreement on this mitigation approach would reduce this impact to a less-than-significant level . Alternatively, the City may determine that because the currently proposed project is consistent with the <u>Waterfront District Master Plan</u> and because the project layout adequately preserves some existing Bay vistas (the north-south Railroad Avenue approach to Bayfront Boulevard, and the Sanderling Drive approach to Bayfront Boulevard), and also includes at least <u>two neighborhood parks, the creekside park, and three internal public accessible plazas</u> featuring views of the Bay (see Figure 3.9, Proposed Civic Space Regulating Plan), the benefits of the substantial modifications to	Applicant	LS/SU

S = Significant
 LS = Less than significant
 SU = Significant unavoidable impact
 NA = Not applicable

Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
---------	--	---------------------	------------------------------	---

the proposed project layout and roadway grid that would be necessary to preserve some or all of these additional existing vistas may not outweigh the economic

- S = Significant
- LS = Less than significant
- SU = Significant unavoidable impact
- NA = Not applicable

Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
<p>of these uses have insufficient exterior light source shielding and operate into late-night hours. The project would also be expected to include security lighting for parking areas, which, with insufficient exterior light source shielding and other measures, might potentially impact nearby residences. These anticipated project effects represent a potentially significant impact.</p>	<p>Potential Significance Without Mitigation</p>	<p>Mitigation Measures</p>	<p>Mitigation Responsibility</p>	<p>Potential Significance With Mitigation</p>
<p>AIR QUALITY</p>	<p>Impact 5-1: Construction-Related Air Quality Impacts. Project-related construction activities may generate construction period exhaust emissions and fugitive dust that could temporarily but noticeably affect local air quality. This would represent a potentially significant impact.</p>	<p>Mitigation 5-1. For all discretionary (e.g., requiring a permit) grading or construction activity associated with the project, require implementation of the following BAAQMD-identified dust control measures by construction contractors, where applicable: During all construction phases:</p> <ul style="list-style-type: none"> ▪ Water all active construction areas-at-least twice-daily as needed to prevent fugitive dust. ▪ Water, apply (non-toxic) soil binders, or cover stockpiles of debris, soil, sand, or other materials that can be blown by the wind. ▪ Cover all trucks hauling soil, sand, and other loose materials, or require all trucks to maintain at least two feet of freeboard. 	<p>Applicant</p>	<p>LS</p>

S = Significant
 LS = Less than significant
 SU = Significant unavoidable impact
 NA = Not applicable

Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
		<ul style="list-style-type: none"> ▪ Pave, apply water three times daily, or apply (non-toxic) soil stabilizers as needed on all unpaved access roads, parking areas, and staging areas at construction sites. ▪ Sweep daily (with water sweepers) all active paved access roads, parking areas, and staging areas at construction sites. ▪ Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets. ▪ Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more). ▪ Erease, cover, water twice daily, or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.). ▪ Limit traffic speeds on unpaved roads to 15 miles per hour. ▪ Install sandbags or other erosion control measures to prevent silt runoff to public roadways. ▪ Replant vegetation in disturbed areas as quickly as possible. 		

S = Significant
 LS = Less than significant
 SU = Significant unavoidable impact
 NA = Not applicable

Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
		<p>would not exceed 54 pounds of NOx per day. Note that the URBEMIS2007 modeling assumed 11.3 acres per day of grading, so reducing NOx equipment emissions by 20 percent and adjusting the grading area to 6.5 acres would result in emissions of less than 54 pounds of NOx per day.</p> <ul style="list-style-type: none"> ▪ Ensure that visible emissions from all on-site diesel-powered construction equipment do not exceed 40 percent opacity for more than three minutes in any one hour. Any equipment found to exceed 40 percent opacity (or Ringelmann 2.0) shall be repaired or replaced immediately. ▪ The contractor shall install temporary electrical service whenever possible to avoid the need for independently powered equipment (e.g., compressors). ▪ Signs shall be posted to ensure that all diesel equipment and trucks standing idle for more than five minutes shall be turned off. This would include trucks waiting to deliver or receive soil, aggregate, or other bulk materials. Rotating drum concrete trucks could <u>may</u> keep their engines running continuously as long as they were on-site and away from residences. 		

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
		<p>equivalent standards in terms of energy efficiency, that reduces energy consumption by at least 20 percent compared to typical new buildings. (The proposed project has received a "Gold" LEED-ND (<u>Neighborhood Development</u>) rating, but not based on Green Building standards.)</p> <p>3. Provide exterior electrical outlets to encourage use of electric powered landscape equipment.</p> <p>It should be noted that a majority of the ROG emissions from the proposed project would be produced from consumer products (e.g., paints, solvents, hairsprays, charcoal fluids, etc.). There are no project-specific mitigation measures to reduce these emissions. The CARB controls these emissions by setting standards for various products, so these emissions are anticipated to be reduced in the future; however, the URBEMIS2007 model does not account for these anticipated reductions.</p> <p>Implementation of these measures would reduce project-related and cumulative impacts on long-term regional ROG, NO_x, and PM₁₀ emission levels by up to 8 percent, depending on the specific measures enacted; however, since reductions of over 30 percent would be required to bring project-related regional</p>		

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
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emission increases to below draft BAAQMD significance thresholds, the project and cumulative effects on ROG, NO_x, and PM₁₀ emission levels would represent a **significant unavoidable project and cumulative impact**.

BIOLOGICAL RESOURCES

Impact 6-1: Potential Project Impacts on Special-Status Bird Species. Construction of the project and shared facilities necessary to support the project could result in disturbance of nesting birds and/or destruction of bird nests associated with adjacent Refugio Creek marsh habitat, existing trees and shrubs along the North Channel and Refugio Creek margins, and ground habitat within the project site. Potentially affected species that are both federally- and state-listed include the California black rail and California clapper rail. Other potentially affected state-listed species include the northern harrier, white-tailed kite, long-billed curlew, burrowing owl, loggerhead shrike, saltmarsh common yellowthroat, and San Pablo song sparrow. Because such nesting birds are protected under the federal Migratory Bird Treaty Act and other state and federal regulations, this possible project effect represents a **potentially significant impact**.

Mitigation 6-1. Implement the following measures to address the potential inadvertent destruction of nesting birds on and near the project site as a result of project construction-related vegetation removal and disturbance:

(a) Nesting Birds Associated with Refugio Creek Marsh Habitat. To avoid the potential for disturbance of nesting birds associated with marsh habitat adjacent to the project site, schedule any construction activities in project Blocks I, J, K, and N that encroach within 300 feet of the brackish (cordgrass tidal) marsh along Refugio Creek to the period of August 1 through February 28/29.

If construction work cannot be scheduled during this period, a biologist meeting the qualifications criteria of the CDFG shall conduct CDFG-protocol pre-construction surveys for nesting birds along the Refugio Creek corridor. The surveys shall be conducted no more than 14 days prior to the start of work and shall

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
			<p>measures, such as installation of exclusion fencing, shall be installed around the perimeter of the subject tidal marsh to prevent species individuals from entering the construction area or being harmed by construction activities. The location and design specifications of the exclusionary fencing or alternative measure shall be submitted to the CDFG for review and approval. The qualified biologist shall monitor installation of the fencing or alternative measure to ensure proper installation and total exclusion of the two species, as well as to insure that no individuals are harmed during installation.</p> <p>A CDFG approved biological monitor will be present during construction activities within and immediately adjacent to the tidal marsh habitat. The biological monitor shall have the authority to stop construction activities if an individual of these species is found within the construction area. If an individual of either species is found on the project or shared facility site during construction, work will immediately cease in the vicinity and the CDFG will be notified.</p> <p><u>Key</u> Construction personnel shall participate in a CDFG-approved worker environmental awareness program. A qualified biologist would inform key construction personnel about the life history of these two species and their</p>	

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
<p>Impact 6-3: Potential Inadvertent Project Take of Vernal Fairy Shrimp. Although no evidence of presence has been detected, marginal habitat for the vernal pool fairy shrimp occurs in the seasonal pools and depressions within ruderal habitats on the project and shared facilities sites, and there remains a remote possibility that vernal pool shrimp could be harmed by project or shared facility construction activities. Such a possible "take" of this federal threatened species represents a potentially significant impact.</p>	<p>S</p>	<p>Mitigation 6-3: Complete preconstruction fairy shrimp surveys <u>were completed</u> in winter 2010/2011 within suitable habitats for vernal pool fairy shrimp (VPFS); <u>no VPFS were found.</u> If VPFS are detected during surveys, notify the USFWS and implement appropriate avoidance and mitigation measures prior to commencement of construction within or adjacent to the VPFS-occupied habitat. <u>If <u>Because</u> no VPFS are <u>were</u> found, no further mitigation will be necessary. Implementation of this measure would reduce this and the impact to a <u>is less-than-significant-level.</u></u></p>	<p>Applicant</p>	<p>LS</p>
<p>Impact 6-4: Potential Inadvertent Project Take of Steelhead, Western Pond Turtle or California Red-Legged Frog. Although suitable habitat for the federal-listed steelhead,</p>	<p>S</p>	<p>Mitigation 6-4: Implement the following measures to address the potential for a project-related inadvertent "take" of steelhead, California red-legged frog, and western pond</p>	<p>Applicant</p>	<p>LS</p>

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 SU = Significant unavoidable impact
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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Potential Significance With Mitigation
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state-listed western pond turtle (WPT), or the state- and federal-listed California red-legged frog (CRLF), is generally absent on and near the project and shared facilities sites, there remains a remote possibility that they could be impacted by project-related vegetation removal and shared facilities in-channel construction activities, resulting in the inadvertent "take" of the species. This possibility represents a **potentially significant impact**.

turtle on the project site or adjacent shared facilities sites during construction.

A biologist meeting the qualifications criteria of the USFWS (for federally listed threatened species) and the CDFG (for state-listed CSC species) shall be retained to oversee construction within Refugio Creek and the North Channel and ensure that no inadvertent take of steelhead, California red-legged frog, or western pond turtle occurs as a result of a project-related short-term disturbance to Refugio Creek and the North Channel.

The qualified biologist shall conduct USFWS-, NOAA- and CDFG-protocol pre-construction surveys to confirm absence or presence of any steelhead or California red-legged frog or western pond turtle, on segments of Refugio Creek and the North Channel where adjacent project-related improvements are proposed. In the remote instance that listed steelhead or California red-legged frog individuals are encountered, the USFWS and NOAA Fisheries shall be consulted to determine appropriate avoidance measures prior to initiation of any project-related construction activities. These measures could include installation of temporary construction fencing, additional surveys and monitoring, and other measures.

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
		<p>bats from colonizing until the renovation is complete.</p> <p>(2) A CDFG-protocol pre-construction survey for roosting bats shall be conducted by a biologist meeting the qualifications criteria of the CDFG within 14 days prior to the commencement of building renovation. To determine presence or absence of bats, the survey shall be conducted by a biologist with experience surveying for bats. If no special-status bats are identified during the pre-construction survey, then no impacts to these CSC bats would be expected to occur from building renovation.</p> <p>If, however, any special-status bats are identified in the structures, all disturbance activities within the structure and within 200 feet should be halted and remain halted until (a) the roost is vacated, or (b) the CDFG has been notified and consulted to develop alternative measures. At present, there are no CDFG standard guidelines for the mitigation and removal of bat species. Bat guidelines specific for the project would be prepared by WRA <u>the qualified biologist</u> in collaboration with CDFG and Western Bat Working Group biologists to determine if protection measures are adequate, or if replacement for loss of occupied habitat is required.</p>		

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
<p>Impact 6-6: Potential Loss of Sensitive Marsh Habitat Communities. Shared facility construction activities within the Refugio Creek and North Channel corridors would result in disturbance and loss of two federal special-status and state-listed sensitive natural communities in these areas: Coastal Brackish Marsh Habitat (pickelweed brackish marsh) covering the banks of Refugio Creek, and brackish stream habitat within the Refugio Creek channel, representing a significant impact.</p>	S	<p>Implementation of these measures to CDFG satisfaction would reduce this impact to a less-than-significant level.</p> <p>Mitigation 6-6. Implement <i>Mitigation 6-7</i>. Implementation of <i>Mitigation 6-7</i> regarding replacement of jurisdictional wetlands would also serve to address potential impacts on sensitive marsh habitat communities, and would reduce this impact to a less-than-significant level.</p>	Applicant	LS
<p>Impact 6-7: Project-Related Potential Loss and Modifications to Jurisdictional Wetlands and Other Waters. An estimated 0.24 acres of jurisdictional waters would be lost or disturbed as a result of the proposed filling of wetlands and other waters to accommodate improvements associated with the Hercules Bayfront Project, and an estimated 1.3785 acres of jurisdictional waters would be lost or disturbed as a result of the proposed shared facilities project-related construction (e.g., i.e., construction of the Refugio Creek and North Channel realignment, restoration and enhancement program, and John Muir Parkway).</p>	S	<p>Mitigation 6-7. Implement the following measures to address project-related potential impacts on jurisdictional wetlands and waters:</p> <p>Where verified waters of the U.S. are present and cannot be avoided, authorization for project-related modifications to these features shall be obtained from the USACE, Water Board, and CDFG. All conditions required as part of the authorizations by the USACE, Water Board, and CDFG shall be implemented as part of the project. Consultation or incidental take permitting may be required under the California and federal Endangered Species Acts. The</p>	Applicant	LS

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
	<p><u>and-Bayfront Boulevard extensions, and Bay Trail extensions), representing a significant impact.</u></p>	<p>applicant for these project-related modification activities shall obtain all legally required permits or other authorizations from the USFWS, NOAA Fisheries, and CDFG for the potential "take" of protected species under the Endangered Species Acts.</p> <p>Prior to issuance of a grading permit for the Hercules-Bayfront Project shared facilities construction that would potentially affect <u>jurisdictional wetlands or waters</u>, a consolidated Wetland Protection and Replacement Program shall be prepared by a qualified wetland specialist and approved by the jurisdictional agencies addressing the proposed onsite filling of scattered seasonal wetlands and depressions within the project site-offsite-shared facilities sites; (including the Refugio Creek and North Channel realignment and restoration, and-related John Muir Parkway and Bayfront Boulevard extensions, and Bay Trail extension). The Program shall include appropriate implementation measures for these construction activities to prevent inadvertent loss and degradation of jurisdictional waters to be protected, and replacement for those features eliminated or modified.—The Program should preferably be implemented as part of the proposed creek restoration and enhancement program.</p>		

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
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Wetlands eliminated by onsite project development and by-offsite shared facilities construction shall be replaced at a minimum

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
		<p>1:1 replacement ratio and shall be established in suitable locations within protected open space areas. The wetland replacement component shall emphasize establishment of native brackish and freshwater marsh habitat to enhance existing habitat values, and shall preferably be consolidated with other existing wetlands to be retained as part of the ITC project.</p> <p>All wetland features <u>within or adjacent to construction areas</u> to be protected shall be flagged by a qualified biologist prior to any grading, and initial onsite and project-related offsite construction activities shall be overseen by the qualified biologist, including installation of temporary protective fencing and silt fencing.</p> <p>The consolidated Wetland Protection and Replacement Program shall also define maintenance and long-term management responsibilities, monitoring requirements, and contingency measures. Monitoring shall be conducted by a qualified wetland specialist for a minimum of five years and continue until the success criteria are met.</p> <p>In addition, an onsite Stormwater Pollution Prevention Plan (SWPPP) shall be prepared and <u>maintained for the Hercules Bayfront Project</u> addressing all water quality, sedimentation, and erosion aspects of the proposed project, as required</p>		

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Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
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Impacts
 property damage, representing a **potentially significant impact**.

with associated storm drainage storage, building elevation, and flood-proofing requirements. In addition, the City shall require at its discretion, Hercules Bayfront Project construction of the shared Bay Trail facility retaining wall or, at the City's discretion, other similar barrier adjacent to the railroad tracks, which would also act as a sea level rise protection wall, if the wall is not built as part of the ITC project. Project construction, including mitigation measures, shall not prevent or impede future construction of the Bay Trail and related retaining walls. Implementation of these measures would be expected to reduce this impact to a **less-than-significant level**.

Applicant LS

CULTURAL AND HISTORIC RESOURCES

Impact 8-1: Disturbance of Archaeological Resources. Project construction could disturb as yet unidentified and/or unrecorded sensitive prehistoric and/or historic archaeological resources on the project site. This possibility represents a **potentially significant impact**.

Mitigation 8-1. Prior to construction, construction personnel shall be briefed regarding what to do in the event buried cultural materials are encountered. In accordance with policies and programs of the *Open Space/Conservation Element* of the Hercules General Plan (specifically, Policy 12a and Program 12a.2), if cultural materials are encountered, the project applicant shall retain a qualified archaeologist approved by the City to monitor any demolition, excavation, or construction activities on the project site. The archaeologist shall have the authority to temporarily halt activities in the vicinity of a find

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
		if significant or potentially significant cultural resources are exposed and/or may be adversely affected by construction operations. Other procedures identified in Program 12a.2 shall be followed. If a significant cultural resource is identified through these		

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
		<p><u>Each site shall be formally re-recorded on State of California primary record forms (form DPR-523) and applicable attachments. Prior to issuance of building permits for the historic building sites, the applicant shall prepare and submit a Historic American Buildings Survey (HABS), including large and medium format photographic documentation. The City shall use the California Historic Building Code (CHBC) for reviewing and issuing building permits.</u></p>		
		<p><u>In addition, a PA qualified, City-approved architectural historian shall submit a report to the City of Hercules Historical Architectural Review Board (HARB) finding conformance with the Secretary of the Interior's Standards. Pursuant to Chapter 20 of the Hercules Zoning Ordinance and the Hercules Design Guidelines for Historic Preservation, the City of Hercules Historical Architectural Review Board (HARB) shall exercise its authority to review and approve/disapprove proposed alterations, enlargements, or rebuilding affecting the exteriors of the Administration and Clubhouse buildings, the landscaping associated with those buildings, and the site plans and proposed new buildings to be located within the Hercules Village Historic District portion of the project site (generally Blocks A, C1, and C2).</u></p>		

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		<p>Successful incorporation of these measures would supplement the City's existing General Plan policies and programs and would reduce the impact to a less-than-significant level (CEQA Guidelines section 15126.4[b]). (The Code of Federal Regulations citation 36 CFR Part 61 defines the minimum education and experience required by the National Park Service to perform identification, evaluation, registration, and treatment of facilities consistent with the CEQA-cited Secretary of the Interior's Standards.)</p>		

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
		<p>Recommendations from the investigation, including appropriate soil stabilization and foundation construction techniques, minimum setbacks around potentially unstable areas, and criteria for the compaction and treatment of on-site fills, shall be incorporated into the final project grading and foundation plans. In general, these recommendations are expected to include the following requirements:</p> <ul style="list-style-type: none"> ▪ that all construction comply with the most current edition of the <u>International Uniform Building Code</u>; ▪ that all project structural designs be based on proper estimates by the project geotechnical engineer of peak and maximum repeatable earthquake-induced ground surface accelerations expected to occur on the project site; and ▪ that excavations be adequately sloped or shored in order to minimize ground movements. <p>Implementation of these measures to the satisfaction of the City, combined with conformance with standard International Building Code, State of California, City of Hercules, and other applicable regulations, would reduce the potential effects of ground</p>		

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
<p>Impact 9-2: Landslide, Slope Stability, and Erosion Hazards. The project would allow development in areas that may be subject to substantial landslide, slope stability, and erosion hazards, representing a potentially significant impact.</p>	<p>S</p>	<p>shaking on the project to a less-than-significant level.</p>	<p>Applicant</p>	<p>LS</p>
		<p>Mitigation 9-2. The <i>detailed, design-level geotechnical investigation</i> required by the City under <i>Mitigation 9-1</i> herein shall include analysis of landslide, slope stability, and erosion hazards and recommend stabilization measures. The City shall also require preparation of a Preliminary Grading Plan and/or Preliminary Geotechnical Report, prepared by a licensed geotechnical engineer, before approval of project grading permits. The project geotechnical engineer shall determine the extent of any necessary landslide and slope stability remediation and shall direct remediation activities during project construction to ensure that any existing or potential future landslides and unstable slopes are fully stabilized. Mitigation measures (e.g., soil replacement, setbacks, and/or retaining walls, <u>and/or similar barriers</u>), including the Bay Trail retaining wall shared with the ITC project, shall be required if needed to protect against damage that might be caused by slope failure. Such mitigation measures shall comply with the applicable provisions of Hercules General Plan <i>Safety Element</i> programs 2D.1 and 2D.2. The investigation shall be reviewed by a registered geologist acting on behalf of the City (not by a third-party reviewer retained by the applicant).</p>		

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
		<p>In addition, if the Hercules Bayfront Project proceeds before the ITC project, the project applicant shall ensure that the design of the Bay Trail and its <u>any</u> associated retaining walls or <u>similar barriers</u> shall remediate any slope stability hazards identified in the detailed, design-level geotechnical investigation, through a combination of slope reduction, slope protection, and other geotechnical measures (e.g., retaining wall design, cut slopes) to the satisfaction of the City Engineer.</p> <p>Implementation of these measures to the satisfaction of the City, combined with conformance with standard International Building Code, State of California, City of Hercules, and other applicable regulations, would reduce the potential effects of landsliding and soil erosion on the project to a less-than-significant level.</p>	Applicant	LS
<p>Impact 9-3: Expansive Soil Hazards. The project would allow development in areas that may be subject to substantial hazards from expansive soils, representing a potentially significant impact.</p>	S	<p>Mitigation 9-3. The detailed, design-level geotechnical investigation required at City discretion under <i>Mitigation 9-1</i> shall include analysis of expansive soil hazards and recommend stabilization measures as appropriate. Once grading plans have been developed, the actual use of expansive soils in engineered fill construction shall be further evaluated and the location of primary borrow source areas for fills shall be determined.</p>	Applicant	LS

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
<p>Impact 9-4: Groundwater Impacts. Mass grading, construction of cuts and fills, redirection of existing drainage patterns, and installation of landscaping irrigation as part of development allowed by the project, could affect existing patterns of groundwater flow in the area, resulting in slope instabilities that would represent a potentially significant impact.</p>	<p>S</p>	<p>be included with each building permit application and with the plans for all public and common area improvements.</p> <p>Implementation of these measures to the satisfaction of the City, combined with conformance with standard International Building Code, State of California, City of Hercules, and other applicable regulations, would reduce the potential effects of expansive soils to a less-than-significant level.</p>	<p>Applicant</p>	<p>LS</p>
<p>Mitigation 9-4. The detailed, design-level geotechnical investigation required at City discretion under <i>Mitigation 9-1</i> shall include analysis of the effects of grading plans on groundwater flow and recommend any necessary additional slope stabilization measures. Educational materials that discourage overwatering in landscaped areas shall be furnished to all future lot owners and property managers at the time of purchase and periodically thereafter (perhaps by inclusion with water or tax bills), as part of an effort to control groundwater seepage. On-site drainage systems shall be regularly maintained to ensure that storm water runoff is directed away from all slope areas. Implementation of these measures to the satisfaction of the City would reduce this potential effect to a less-than-significant level.</p>				

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
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HAZARDS AND HAZARDOUS MATERIALS

Impact 10-1: Potential Exposure to Existing Hazardous Materials Contamination. The project site and surrounding vicinity may contain isolated areas of contamination from past industrial (powder and fertilizer company) use or other sources that could pose a safety hazard for workers, residents, or other occupants of the site. As discussed in EIR subsection 10.1.2, while the project site and surrounding properties have historically been used for industrial purposes, soil and groundwater contamination has been remediated in accordance with regulatory requirements. Though not anticipated, it is conceivable that grading and construction on the project site may encounter additional isolated pockets of contaminants similar to those previously encountered at other areas of the Waterfront District. This possibility represents a **potentially significant impact**.

Mitigation 10-1. If additional contaminants are encountered, the affected areas would be remediated to residential standards. The applicant shall comply with all applicable existing state- and county-mandated site assessment, remediation, removal, and disposal requirements for soil, surface water, and/or groundwater contamination. In particular, these include the requirements of Contra Costa County, the Regional Water Quality Control Board (RWQCB), and the California Department of Toxic Substances Control (DTSC). DTSC, as lead regulatory agency, would provide oversight of the clean-up.

Implementation of these measures would involve the following steps:

- (a) *Soil Contamination.* In order to mitigate potential health hazards related to construction personnel or future occupant exposure to soil contamination, the applicant shall complete the following steps for each area proposed for disturbance as part of project-proposed construction activity on the site:

Step 1. Investigate the area to determine whether it has a record of hazardous

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
		<p>material discharge into soils, and if so, characterize the area according to the nature and extent of soil contamination that is present before development activities proceed in that area.</p>		
		<p>Step 2. Based on the proposed activities, determine the need for further investigation and/or remediation of the soils conditions in the contaminated area. For example, if the area is slated for commercial land use, the majority of the area would be paved and there would be little or no contact with contaminated soil. Industrial clean-up levels would likely be applicable. If the slated development activity could involve human contact with soils, such as may be the case with residential use, then Step 3 should be completed. If no human contact is anticipated, then no further mitigation is necessary.</p>		
		<p>Step 3. If it is determined that extensive soil contact would accompany the intended use of the area, undertake a Phase II investigation, involving soil sampling at a minimum, at the expense of the property owner or responsible party. Should further investigation reveal high levels of hazardous materials in the</p>		

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
		<p>area soils, mitigate health and safety risks according to City of Hercules, Contra Costa County Health Services Department, and Regional Water Quality Control Board (RWQCB) regulations. This would include site-specific health and safety plans prepared prior to undertaking any building or utility construction. Also, if buildings are situated over soils that are significantly contaminated, undertake measures to either remove the chemicals or prevent contaminants from entering and collecting within the building. If remediation of contaminated soil is infeasible, a deed restriction would be necessary to limit site use and eliminate unacceptable risks to health or the environment.</p> <p><i>(b) — Surface Water or Groundwater Contamination.</i> In order to reduce potential health hazards due to construction personnel or future occupant exposure to surface water or groundwater contamination, the applicant shall complete the following steps for each area proposed for disturbance as part of project proposed construction activity on the site:</p> <p>Step 1. Investigate the area to determine whether it has a record of hazardous</p>		

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
		<p>material discharge into surface water or groundwater, and if so, characterize the area according to the nature and extent of contamination that is present before development activities proceed in that area.</p>		
		<p>Step 2. Install drainage improvements in order to prevent transport and spreading of hazardous materials that may spill or accumulate on site.</p>		
		<p>Step 3. If investigations indicate evidence of chemical/environmental hazards in site surface water and/or groundwater, then mitigation measures acceptable to the RWQCB would be required to remediate the area prior to development activity.</p>		
		<p>Step 4. Inform construction personnel of the proximity to recognized contaminated sites and advise them of health and safety procedures to prevent exposure to hazardous chemicals in surface water/groundwater.</p>		
		<p>Compliance with these requirements would be expected to assure that this possible health and safety impact would be less-than-significant.</p>		

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
<p>Impact 10-2: Potential Asbestos, PCB, and/or Mercury Exposure. Renovation and adaptive reuse of the existing former Administration and Clubhouse buildings on the site, as proposed by the project, could involve removal or disturbance of asbestos-containing material (ACM), PCBs, and/or plumbing, which could expose construction workers and the general public to friable asbestos, PCBs, and/or mercury. This possibility represents a potentially significant impact.</p>	<p>S</p>	<p>Mitigation 10-2: Ensuring proper identification and removal of ACM, PCBs, and/or mercury requires the project applicant to complete the following steps:</p> <p>Step 1. Thoroughly survey the project site and existing structures for the presence of ACM, PCBs, and mercury. The survey shall be performed by a person who is properly certified by OSHA and has taken and passed an EPA-approved building inspector course. [This step has been partially completed.]</p> <p>Step 2. Prepare a written Asbestos Abatement Plan describing activities and procedures for removal, handling, and disposal of these building elements using the most appropriate procedures, work practices, and engineering controls.</p> <p>Step 3. Provide the asbestos survey findings, the written Asbestos Abatement Plan (if necessary), and notification of intent to the City of Hercules and Contra Costa County Health Services Department at least ten days prior to commencement of work.</p> <p>Step 4. Remove any mercury-containing electrical equipment/plumbing prior to</p>	<p>Applicant</p>	<p>LS</p>

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
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proposed dredged materials. A Sampling and Analysis Plan (SAP) detailing sediment sampling and analysis is typically submitted to the San Francisco Bay Dredged Material Management Office (DMMO). If the results of the SAP indicate that water quality will not be impacted by dredging, a consolidated Dredging/Dredge Material Reuse/Disposal permit can be issued by the Corps. The permit would cover both Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act. If contaminated sediment is encountered, further sediment characterization and a sediment removal plan (including upland disposal or beneficial reuse) would be required by the Corps as a condition of permit issuance.

Project interim drainage plan compliance with Corps dredging permit requirements would reduce associated water quality impacts to a **less-than-significant level**.

Mitigation 11-3. Pursuant to the federal Clean Water Act, the quality of storm water runoff discharging into creeks and sloughs is governed by the National Pollutant Discharge Elimination System (NPDES). NPDES permit issuance requires the preparation of a Storm Water Pollution Prevention Plan (SWPPP). As a condition of project approval, the City shall ensure that the project applicant complies with applicable City storm water control plan and

Impact 11-3: Ongoing Impacts on Water Quality. Ongoing activities associated with operation of the project could increase the level of contaminants in receiving waters. Sources of pollutants could include (a) runoff from new roadways, parking areas, and other paved areas; and (b) herbicides, pesticides, and fertilizers used in new domestic landscaping. These factors could combine to significantly degrade the quality of receiving waters in

Applicant LS

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
<p>Impact 11-5: Interim Refugio Creek Flooding Impacts. Construction of the adjacent Hercules Intermodal Transit Center (ITC) project is anticipated to commence prior to the Hercules Bayfront Project, including restoration and enhancement of Refugio Creek from the existing restored creek segment terminus south of the North Channel to the creek's San Pablo Bay outfall. The Hercules Bayfront Project includes a proposed interim creek restoration and enhancement concept for implementation in the event that the Hercules Bayfront Project is constructed prior to the ITC project. The proposed interim Refugio Creek realignment and grading concept extends from the existing restored creek segment terminus south of the North Channel to a proposed tie-in to the existing channel at a point approximately 90 feet south of the proposed new Bayfront Bridge. Preliminary hydrologic modeling by the applicant's consulting civil engineer/hydrologist indicates that this interim drainage concept could provide interim flood control and wetland</p>	<p>S</p>	<p><i>Management Element</i> provisions related to flood control), and (b) all relevant provisions of the City's flood damage prevention ordinance (Title 10, Chapter 7 of the Hercules Municipal Code). Implementation of this measure would reduce the impact to a less-than-significant level.</p>	<p>Applicant</p>	<p>LS</p>
<p>Mitigation 11-5. If the Hercules Bayfront Project construction is ultimately proposed to commence prior to the adjacent ITC project, the following mitigation requirement will apply:</p> <p>As a condition of tentative map or final development plan approval requirement for issuing a building permit for Blocks G, K, L, M, N, O, Q, and R, the applicant's civil engineer/hydrologist shall demonstrate to City Engineer satisfaction, including final hydrologic monitoring, that the proposed interim Hercules Bayfront Project creek channel grading plan, with tie-in and without replacement of the existing downstream dog-leg and culverts, will adequately protect the structure and operation of the new Bayfront Bridge and proposed Transit Loop Bridge and Railroad Bridge against damage from the 100-year flood, and ensure that people and structures in surrounding existing neighborhoods (which cannot be raised) are protected from significant flood risk. Implementation of this requirement would reduce this impact to a less-than-significant level.</p>	<p>S</p>	<p>Mitigation 11-5. If the Hercules Bayfront Project construction is ultimately proposed to commence prior to the adjacent ITC project, the following mitigation requirement will apply:</p> <p>As a condition of tentative map or final development plan approval requirement for issuing a building permit for Blocks G, K, L, M, N, O, Q, and R, the applicant's civil engineer/hydrologist shall demonstrate to City Engineer satisfaction, including final hydrologic monitoring, that the proposed interim Hercules Bayfront Project creek channel grading plan, with tie-in and without replacement of the existing downstream dog-leg and culverts, will adequately protect the structure and operation of the new Bayfront Bridge and proposed Transit Loop Bridge and Railroad Bridge against damage from the 100-year flood, and ensure that people and structures in surrounding existing neighborhoods (which cannot be raised) are protected from significant flood risk. Implementation of this requirement would reduce this impact to a less-than-significant level.</p>	<p>Applicant</p>	<p>LS</p>

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
<p>potential intermittent interference with typical existing residential and business activities during project construction periods. This possibility represents a potentially significant intermittent and short-term noise impact.</p>		<p>for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with nearby noise-sensitive facilities so that construction activities and the event schedule can be scheduled to minimize noise disturbance.</p> <ul style="list-style-type: none"> ▪ <i>Construction Scheduling.</i> Ensure that noise-generating construction activities are limited to between the hours of 7:30 AM to 5:00 PM, Monday through Friday, and 9:00 AM to 5:00 PM on weekends and holidays, and are approved by written request to the Department of Public Works (based on planned civic activity in the area). ▪ <i>Construction Equipment Mufflers and Maintenance.</i> Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment. ▪ <i>Equipment Locations.</i> Locate stationary noise-generating equipment as far as possible from sensitive receptors when sensitive receptors adjoin or are near the construction site. ▪ <i>Construction Traffic.</i> Route all construction traffic to and from the construction sites via 		

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
		<p>designated truck routes where possible. Prohibit construction-related heavy truck traffic in residential areas. All construction traffic routes shall be approved by the City.</p> <ul style="list-style-type: none"> ▪ <i>Quiet Equipment Selection.</i> Use quiet construction equipment, particularly air compressors. ▪ <i>Temporary Barriers.</i> Construct solid plywood fences around construction areas to shield residences, operational businesses, or noise-sensitive land uses. ▪ <i>Temporary Noise Blankets.</i> Temporary noise control blanket barriers should be erected, if necessary, along building facades of construction areas. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling. (Noise control blanket barriers can be rented and quickly erected.) ▪ <i>Noise Disturbance Coordinator.</i> The City may choose to require project designation of a "Noise Disturbance Coordinator" who would be responsible for responding to any local complaints about construction noise. The Disturbance Coordinator would determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) 		

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
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and institute reasonable measures to correct the problem. Conspicuously post a telephone number for the Disturbance Coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule. (The project sponsor should be responsible for designating a Noise Disturbance Coordinator, posting the phone number, and providing construction schedule notices. The Noise Disturbance Coordinator would work directly with an assigned City staff member.)

Implementation of these measures would reduce this intermittent project construction period noise impact, but--due to the extended construction period of several years--this impact is considered **significant and unavoidable**.

Mitigation 13-2. For all proposed buildings where the exterior noise level at the facade exceeds 60 dBA L_{dn} , project-specific acoustical analyses consistent with shall be conducted and measures taken as necessary to meet the requirements of the State Building Code (SBC) shall be conducted prior to individual building construction to confirm that individual building designs will reduce interior noise levels to 45 dBA L_{dn} or lower. Building sound insulation requirements may include the provision of

Impact 13-2: Potential Exposure of Project Development to Interior Noise Levels Exceeding Standards. The existing noise environment throughout the project site is estimated at between 60 dBA and 77 dBA L_{dn} . As shown on Figure 3.6 (Proposed Site Plan) in chapter 3, proposed Hercules Bayfront project Blocks B, D, E, G, K, L, and M would have façades closest to railroad tracks, approximately 100 to 130 feet away. Utilizing

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
<p>the data measured by Salter in 2004 and updated by Illingworth & Rodkin in 2009, residential uses on these blocks would be exposed to noise levels ranging from 68 dBA L_{dn} to as high as 77 dBA L_{dn}. The highest noise exposure levels would exceed the 70 dBA L_{dn} threshold for residential noise exposure adjacent to railroad tracks in the City of Hercules. Project Blocks A, C, F, H, J, N, O, P, Q, and R would be shielded from rail lines and would be approximately 310 to 360 feet from the railroad tracks. All these blocks propose residential units, some in combination with retail space.</p>	<p>These possible long-term adverse noise effects of the proposed project represent a potentially significant impact.</p>	<p>sound-rated windows and doors, and forced-air mechanical ventilation for residential units so that windows could be kept closed at the occupant's discretion to control noise. The specific determination of what treatments are necessary shall be conducted on a unit-by-unit basis. Results of the analysis, including the description of the necessary noise control treatments, shall be submitted to the City, along with the associated building plans, for review and approval prior to issuance of a building permit.</p>	<p>The final requirements for building noise controls would be determined by the City during the detailed design process, pursuant to SBC requirements. The City shall retain. During the individual project design review process, a qualified Acoustical Engineer, at project applicant expense, during the individual project design review process to shall peer review and verify residential structure noise abatement specifications for all residential units proposed within 200 feet from the railroad tracks.</p>	<p>Implementation of these measures to the satisfaction of the City would reduce the potential impact on new residential uses to a less-than-significant level.</p>
<p>Impact 13-3: Potential Exposure of Project Outdoor Use Areas to Noise Levels</p>	<p>S</p>	<p>Mitigation 13-3. The project design <u>currently</u> includes a retaining wall (as a shared facility with the ITC</p>	<p>Applicant</p>	<p>LS</p>

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
<p>Exceeding Standards. Outdoor areas near residential units are proposed where exterior noise levels would be up to 77 dBA L_{dn} when there is line-of-sight to the railroad (i.e., no barrier). This exceeds the outdoor noise exposure criterion of 70 dBA L_{dn} when railroad noise is the primary source; these areas may be considered "noise-sensitive" outdoor areas. This represents a potentially significant impact.</p>	<p>Potential Significance Without Mitigation</p>	<p>Mitigation Measures</p> <p>project), which would also act as a noise barrier, along the railroad right-of-way (based on an acoustic analysis that has been performed in accordance with Title 24). The retaining wall, in combination with building shielding, is anticipated to reduce noise in outdoor residential activity areas to below 70 dBA L_{dn}. The final design for the noise barrier (i.e., retaining walls or other noise barriers that might be equally effective) shall be reviewed during the subsequent acoustical analyses required for Title 24 compliance, and incorporated into the final acoustical report for the project design prior to issuance of building permits to reduce noise in outdoor residential activity areas to below 70 dBA L_{dn}. If the retaining wall is not built as part of the ITC project prior to development of Hercules Bayfront Project outdoor use areas, the Hercules Bayfront Project shall prepare, to City satisfaction, the acoustical analyses required for Title 24 compliance in order to identify location-specific measures that will reduce noise impacts on outdoor use areas to a less-than-significant level (i.e., below 70 dBA Ldn). The retaining wall, or any other noise barriers as deemed necessary, shall be constructed according to the noise-attenuation specifications identified in the acoustical analyses, subject to City review and approval. Implementation of these measures to the</p>	<p>Mitigation Responsibility</p>	<p>Potential Significance With Mitigation</p>

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
Impact 13-4: Potential Exposure of Project Development to Groundborne Vibration	S	satisfaction of the City would reduce the potential impact to a less-than-significant level .	Applicant	LS

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
<p>intersections would exacerbate the impact--i.e., cause further increases in delay at the five intersections.</p>	<p>The five affected intersections include the following four intersections along San Pablo Avenue or Willow Avenue, WCCTAC-designated "routes of regional significance," which would already be operating at an unacceptable LOS F without the project:</p> <ul style="list-style-type: none"> ▪ Intersection #2, San Pablo Avenue/John Muir Parkway--AM and PM peak hour; ▪ Intersection #3, San Pablo Avenue/Old Transit Center Driveway--PM peak hour; ▪ Intersection #4, San Pablo Avenue/Sycamore Avenue--AM and PM peak hour; and ▪ Intersection #6, Willow Avenue/Sycamore Avenue--AM and PM peak hour. 	<p>Mitigation Measures</p> <ul style="list-style-type: none"> ▪ Measure 16-2-1: To mitigate the project impact on intersection #2, San Pablo Avenue/John Muir Parkway, signalize the intersection of San Pablo Avenue/Tsushima Street, allowing full access to Tsushima Street, and provide a 150-foot minimum eastbound left-turn storage pocket. This mitigation measure is currently planned by the City of Hercules, but it is not currently fully funded. This signalization measure and new eastbound left-turn will decrease volumes along San Pablo Avenue through downtown Hercules by providing an alternative route. 	<p>Implementation of this mitigation measure would result in LOS B operation at this intersection under the Cumulative-Plus-Project condition during both the AM and PM peak hours--i.e., would reduce this impact to a less-than-significant level. Implementation of this measure would also be necessary to mitigate other identified intersection impacts in the downtown core area (see measures 16-2-2, 16-2-3 and 16-2-4 below).</p>	<p>Implement this mitigation measure</p>
<p>The project addition to anticipated already unacceptable (LOS F) cumulative (2035) conditions at these four WCCTAC intersections would represent a significant impact.</p>	<p>As shown in Table 16.13, the five affected intersections also include the following local</p>	<p>Mitigation Measures</p> <ul style="list-style-type: none"> ▪ Measure 16-2-2: To mitigate the project impact on intersection #4, San Pablo Avenue/Sycamore Avenue, implement Measure 16-2-1 plus the following additional measures: 	<p>Implement this mitigation measure</p>	<p>Implement this mitigation measure</p>

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
	<p>Potential Significance Without Mitigation</p>	<p>Mitigation Measures</p> <ul style="list-style-type: none"> ▪ Measure 16-2-4: To mitigate the project impact on intersection #6, Willow Avenue/Sycamore Avenue, implement Measures 16-2-2, which would reduce intersection delay at this intersection to below no-project levels--i.e., would reduce this impact to a less-than-significant level. ▪ Measure 16-2-5: To mitigate the project impact on intersection #11, Sycamore Avenue/Tsushima Street, install a traffic signal at the intersection and construct a northbound right-turn lane to provide a northbound intersection approach with both a shared through/left-turn lane and a right-turn lane. 	<p>Mitigation Responsibility</p>	<p>Potential Significance With Mitigation</p>
	<p>Potential Significance Without Mitigation</p>	<p>Mitigation Measures</p> <p>Implementation of this measure would reduce intersection delay to City-acceptable levels--i.e., would reduce this impact to a less-than-significant level.</p>	<p>Mitigation Responsibility</p>	<p>Potential Significance With Mitigation</p>
<p>Impact 16-3: Cumulative Plus Project Impacts on Freeway Operations. As shown in Table 16.14, the addition of project traffic would result in significant impacts on projected cumulative (2035) unacceptable (LOS F) traffic operations on the following six of seven I-80</p>	<p>Potential Significance Without Mitigation</p>	<p>Mitigation Measures</p> <p>Mitigation 16-3. The project sponsor shall establish and implement a Hercules Bayfront Project TDM Program that, at a minimum, incorporates all project-related property sales and leasing agreements a requirement that all project homeowners associations and</p>	<p>Mitigation Responsibility</p> <p>Applicant</p>	<p>Potential Significance With Mitigation</p>

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2.5 SUMMARY OF ALTERNATIVES

Five alternatives to the proposed project are also evaluated in chapter 19 of this EIR (Alternatives to the Proposed Project) to provide a further understanding of the environmental effects of the proposed project and possible approaches to reducing identified significant impacts, and to meet CEQA requirements for EIR content. The five alternatives are summarized below.

2.5.1 Identified Alternatives

- **Alternative 19.1: No Project--Existing Conditions.** Under this CEQA-suggested alternative, the project site would remain unchanged (i.e., a substantially vacant site with two vacant historic buildings) and thereby would not meet the project objectives of developing a transit-oriented, mixed-use neighborhood that includes a variety of dwelling types and businesses and an associated system of walkable streets, pedestrian interconnections, and public plazas with views of San Pablo and San Francisco Bays, with the overall intent of implementing the current WDMP. This alternative would not be consistent with the goals and objectives of the planned Intermodal Transit Center (ITC) project, whose successful implementation depends on the "critical mass" of residents, workers, and visitors in the City, nearby areas, and the Hercules Bayfront Project.
- **Alternative 19.2: No Project--Waterfront District Master Plan (WDMP) Initiative Scenario Without Project Proposed Amendments.** Under this alternative, the project-proposed amendments to the City's General Plan, Zoning Ordinance, and WDMP would not be approved or implemented. Future development on the project site would continue to be regulated by these land use controls as currently adopted. The maximum residential and maximum flex-space (residential, office and/or retail) buildout totals estimated for the Historic Town Center and Transit Village sub-districts would remain as stipulated in the current WDMP. In comparison to the proposed project, the maximum estimated office floor space and maximum estimated retail floor space totals for the Historic Town Center and Transit Village Sub-Districts would be less. This alternative would generally reduce environmental impacts to levels corresponding to the lower buildout potential while still substantially achieving the project objectives of a transit-oriented, mixed-use neighborhood with a variety of dwelling types and businesses, and an associated system of walkable roadways, pedestrian interconnections, and public plazas with bay views. However, this alternative would also result in reduced commercial (office and retail) amenities within the project area and an associated reduction in project trip internalization (including a reduced number of project employees potentially using the adjacent planned Intermodal Transit Center facilities).
- **Alternative 19.3: Reduced Development Scenario.** Under this alternative, a development program and mix of land uses similar to the proposed project would be approved and implemented, but with approximately:
 - a 20 percent reduction in the maximum allowable number of residential units and square footage of office floor area and flex space; and
 - a 30 percent reduction in retail floor area.

square footage has been assigned in the Hercules Bayfront EIR to the ITC project transit center component. Square footage has been assigned in the table to the Transit Annex/Cafe component on the same block. The proposed ITC project is included in the anticipated cumulative effects (e.g., traffic) evaluated in this EIR.

⁶ Includes an option of either 125 residential (non-flex) units or a 125-room hotel (still counted as 125 residential units in the table) on Block D.

⁷ Blocks F and H are owned by others (i.e., not owned by the project applicant). The City's General Plan and Zoning Map identify these blocks as "Residential Single Family Low Density." For analysis in this Draft EIR, the applicant has requested that these blocks be analyzed ~~as though they were designated "Historic Town Center," a designation that permits higher density residential as well as retail~~ consistent with the estimated build-out listed in Section 1.5 of the WDMP.

⁸ The total of 42.36 acres includes all of the development blocks (see Figure 3.6) and public roads within the project boundary.

shall be permitted to be built as retail floor area. In addition, if all 134,000 square feet of flex space were developed with residential uses, the maximum number of residential units would be 134.

Table 3.3 compares Table 3.2 (built out with the "proposed revisions") with previous Table 3.1 (WDMP build out without the "proposed revisions") and indicates that:

- the proposed project residential total of 1,392 units is consistent with the maximum estimated in the current WDMP for the Historic Town Center and Transit Village sub-district (1,392 units);¹
- the proposed project office (non-flex) space total of 115,000 square feet is more than the maximum estimated in the current WDMP for the Historic Town Center and Transit Village sub-district (81,000 square feet);
- the proposed project retail (non-flex) space total of 90,000 square feet is more than the maximum estimated in the current WDMP for the Historic Town Center and Transit Village sub-district (74,500 square feet); and
- the proposed project flex-space total of 134,000 square feet is consistent with the maximum estimated in the current WDMP for the Historic Town Center and Transit Village sub-district (134,000 square feet).²

¹Under the proposed project, the 134,000 square feet of flex-space could be developed as up to 134 residential units, for a potential maximum of 1,526 residential units.

²Under the proposed project, the 134,000 square feet of flex-space could be developed as up to 134 residential units, for a potential maximum of 1,526 residential units.

In total, the project-proposed Hercules Bayfront Boulevard Mixed-Use area would include a “ground-up” maximum of:

- 305 multi-family residential (non-flex) units;
- 35,000 square feet of office (non-flex) floor area;
- 77,000 square feet of retail (non-flex) floor area (3,000 square feet of this total would share Block I with the ITC Project); and
- 40,000 square feet of flex space.

Anticipated uses by block are described below:¹

- *Block D:* This block will include approximately: either (1) a 125-room hotel or (2) 125 multi-family (non-flex) residential units, 12,500 square feet of retail (non-flex) uses; and 20,000 square feet of flex uses.
- *Block E:* This block will include approximately 14,000 square feet of retail (non-flex) space, 10,000 square feet of flex uses, and 65 multi-family residential units.
- *Block F:* This block could include approximately 11,000 square feet of retail (non-flex) uses and 25 multi-family residential units.²
- *Block G:* This block will include approximately 14,000 square feet of retail (non-flex) space; 10,000 square feet of flex uses; and 50 multi-family residential units.
- *Block H:* This block could include approximately 11,000 square feet of retail (non-flex) uses and 25 multi-family residential units.³
- *Block I:* This block will include the Station Building and Transit-Civic Plaza components of the separate, City-proposed ITC project (see section 3.3.5 herein) which is subject to its own, separate EIR/EIS, and up to approximately 3,000 square feet of related retail (non-flex) uses.

¹The application project description sets forth the anticipated uses by block. However, the application proposes that the applicant may transfer uses within blocks so long as the transfer: (1) would not result in any new significant or more severe impacts than were studied in this EIR; and (2) would otherwise be consistent with the WDMP.

²The applicant does not own Block F, which has existing entitlements, and is not requesting any land use changes to this block in its application. The City's General Plan and Zoning Map identify these this blocks as “Residential Single Family Low Density.” For the “ground-up” analysis in this Draft EIR, the applicant has requested that these this blocks be analyzed as though they were designated “Historic Town Center,” a designation that permits higher density residential as well as retail consistent with the estimated build-out listed in Section 1.5 of the WDMP.

³The applicant does not own Block H, which has existing entitlements, and is not requesting any land use changes to this block in its application. For the “ground-up” analysis in this Draft EIR, the applicant has requested that these this blocks be analyzed as though they were designated “Historic Town Center,” a designation that permits higher density residential as well as retail consistent with the estimated build-out listed in Section 1.5 of the WDMP.

- Changes to the WDMP “Architectural Styles Allowed” diagram (p. 2.2 in Exhibit I of the WDMP Initiative).
- Changes to the WDMP “Civic Space Regulating Plan” diagram (e.g., block and street reconfigurations) and related key (See Figure 3.9) to reflect the proposed project site plan (Figure 3.6).
- Changes to the WDMP “Street and Circulation Regulating Plan” diagram (e.g., block and street reconfigurations) and related key to reflect the proposed project site plan (Figure 3.6) and circulation plan (Figure 3.8).¹

3.5.5 Proposed Project Circulation and Transit Components

The project also includes the Proposed Street and Circulation Regulating Plan illustrated on Figure 3.8. As shown, vehicular access to the project site would still be provided by Railroad Avenue, Bayfront Boulevard, Sycamore Avenue, Sanderling Drive, and John Muir Parkway, including the WDMP-planned and ITC project-implemented extensions of John Muir Parkway and Bayfront Boulevard.

The proposed project has been designed to facilitate alternative modes of transportation (e.g., transit, bicycling, walking). The project includes street layouts that have been designed to be walkable and coordinated with the ITC project circulation and transit components.

The planned Hercules Point Bridge, which is the westernmost pedestrian over-crossing shown on Figure 3.8, would be constructed as part of the ITC project. The bridge would be located adjacent to Hercules Bayfront Project Block D and perpendicular to the railroad tracks, and would allow pedestrian and small service vehicle (e.g., motorized cart) access to Hercules Point. Also as part of the ITC project, an emergency vehicle access (EVA) route is proposed to be constructed between Hercules Bayfront Project Blocks E and G for emergency vehicles to cross the railroad tracks, and a pedestrian over-crossing is proposed to be constructed adjacent to Hercules Bayfront Project Block I to the planned train station platform and ferry station. The Hercules Bayfront Project Street and Circulation Regulating Plan illustrated on Figure 3.68 assumes completion of these two components as part of the ITC project.

As also illustrated on Figure 3.68, the Hercules Bayfront Project proposes to replace “Edge Street I” with a pedestrian path along the North Channel, possibly with underground pipelines to accommodate potable water, wastewater, and storm drainage.

3.5.6 Proposed Project Storm Drainage Components

The City’s storm drainage plan for the Hercules waterfront, which would apply to both the Hercules Bayfront Project and the ITC project, is illustrated on Figure 11.1 in chapter 11 (Hydrology and Water Quality) of this Draft EIR. Under the plan, Refugio Creek would continue to collect runoff from the project. The proposed adjacent ITC project would include the

¹The application also includes proposed changes to the WDMP “Hercules Point Standards” diagram (p. 3-7 in Exhibit I of the WDMP Initiative) and associated text. Hercules Point is an area which is not part of the proposed Hercules Bayfront Project development program and, therefore, any environmental implications of these suggested changes are not addressed in this EIR.

Mitigation 4-1. The applicant could be required to modify the proposed project layout and roadway grid to more effectively preserve and feature additional existing Bay vistas, including existing vistas from the Main Street approach to Railroad Avenue (Viewpoint 1), the Railroad Avenue approach at Sycamore Avenue (Viewpoint 2), and the Promenade Street approach to Bayfront Boulevard (Viewpoint 4, which would also be impacted by the ITC project). City and applicant agreement on this mitigation approach would reduce this impact to a ***less-than-significant level***. Alternatively, the City may determine that because the currently proposed project is consistent with the Waterfront District Master Plan and because the project layout adequately preserves some existing Bay vistas (the north-south Railroad Avenue approach to Bayfront Boulevard, and the Sanderling Drive approach to Bayfront Boulevard), and also includes at least two neighborhood parks, the creekside park, and three internal public accessible plazas featuring views of the Bay (see Figure 3.9, Proposed Civic Space Regulating Plan), the benefits of the substantial modifications to the proposed project layout and roadway grid that would be necessary to preserve some or all of these additional existing vistas may not outweigh the economic and other benefits of retaining the proposed layout. This latter determination would mean City acceptance of a ***significant and unavoidable environmental (visual) impact***.

Impact 4-2: Project Impact on the Existing Visual Character of the Site and its Surroundings. The project site is located on the City's northwest waterfront edge, separated from San Pablo Bay by the UPRR line. The site surroundings have been extensively modified by development of the Northshore Business Park to the east and the medium density Baywood, Promenade and Bayside residential neighborhoods to the south. The majority of the project site itself is either devoid of vegetation or supports a sparse cover of non-native grasses and weedy vegetation. The proposed Hercules Bayfront Project is generally consistent in intensity and form with the WDMP. Required project compliance with the WDMP "Form-Based Code" provisions would ensure general compatibility with the existing adjacent residential neighborhoods. Nevertheless, the project site is prominently located at the waterfront base of Refugio Valley, is directly visible from higher surrounding community vantage points to the south, southwest and west (including I-80), and provides for clear, unobstructed views of San Pablo Bay, Hercules Point and San Francisco Bay. In this context, the proposed conversion of this last large remaining 42.36-acre waterfront open space area to an intensive, transit-oriented mixed use development could be perceived as a substantial degradation of the visual character and quality of the Refugio Valley area. This anticipated project effect represents a ***potentially significant impact*** (see criterion [c] in subsection 4.3.1, "Significance Criteria," above).

Mitigation 5-1. For all discretionary (e.g., requiring a permit) grading or construction activity associated with the project, require implementation of the following BAAQMD-identified dust control measures by construction contractors, where applicable:

During ***all construction phases:***

- ~~Water all active construction areas at least twice daily~~ as needed to prevent fugitive dust.
- ~~Water,~~ apply (non-toxic) soil binders, or cover stockpiles of debris, soil, sand, or other materials that can be blown by the wind.
- Cover all trucks hauling soil, sand, and other loose materials, or require all trucks to maintain at least two feet of freeboard.
- ~~Pave, apply water three times daily,~~ or apply (non-toxic) soil stabilizers as needed on all unpaved access roads, parking areas, and staging areas at construction sites.
- Sweep daily (with water sweepers) all active paved access roads, parking areas, and staging areas at construction sites.
- ~~Sweep streets daily (with water sweepers)~~ if visible soil material is carried onto adjacent public streets.
- Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas ~~(previously graded areas inactive for ten days or more).~~
- ~~Enclose, cover, water twice daily, or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.).~~
- Limit traffic speeds on unpaved roads to 15 miles per hour.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Replant vegetation in disturbed areas as quickly as possible.
- Consult with BAAQMD prior to demolition of any structures suspected to contain asbestos to ensure that demolition/construction work is conducted in accordance with BAAQMD rules and regulations.

The following are measures to control emissions by diesel-powered construction equipment used by construction contractors, where applicable:

(continued)

Mitigation 5-1 (continued):

- Develop a plan demonstrating that the off-road equipment (more than 50 horsepower) to be used in the construction project (i.e., owned, leased, and subcontractor vehicles) would achieve a project-wide fleet-average 20 percent NOx reduction and 45 percent PM reduction compared to the most recent CARB fleet average. Acceptable options for reducing emissions include the use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices such as particulate filters, and/or other options as such become available.
- Limit grading to 6.5 acres per day or develop plans to demonstrate that average daily emissions during the grading period would not exceed 54 pounds of NOx per day. Note that the URBEMIS2007 modeling assumed 11.3 acres per day of grading, so reducing NOx equipment emissions by 20 percent and adjusting the grading area to 6.5 acres would result in emissions of less than 54 pounds of NOx per day.
- Ensure that visible emissions from all on-site diesel-powered construction equipment do not exceed 40 percent opacity for more than three minutes in any one hour. Any equipment found to exceed 40 percent opacity (or Ringelmann 2.0) shall be repaired or replaced immediately.
- The contractor shall install temporary electrical service whenever possible to avoid the need for independently powered equipment (e.g., compressors).
- Signs shall be posted to ensure that all diesel equipment and trucks standing idle for more than five minutes shall be turned off. This would include trucks waiting to deliver or receive soil, aggregate, or other bulk materials. Rotating drum concrete trucks ~~could~~ may keep their engines running continuously ~~as long as they were on-site and away from residences.~~
- Properly tune and maintain equipment for low emissions.
- Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

Implementation of these measures would reduce daily NOx emissions below 54 pounds per day and implement feasible PM₁₀ control measures that are consistent with BAAQMD recommendations. Therefore, the project construction-related air quality impact would be reduced to a ***less-than-significant level***.

Mitigation 5-2: To support the pedestrian, bicycle, and transit-oriented provisions included in the proposed project and reduce associated potential ROG, NO_x, and PM₁₀ emissions, the project shall also include the following measures:

1. Develop and implement a comprehensive transportation demand management (TDM) plan that includes the following measures to further encourage alternative modes of transportation:

- Construct transit amenities, such as bus pull-outs, bus shelters, and kiosks that provide transit information (these should be coordinated with the ITC project);
- Work with 511 Contra Costa to provide transit incentives;
- Support/coordinate ridesharing, including preferential parking for car or van pools at office facilities;
- Provide bicycle amenities that include secure bicycle storage/parking for all uses and showers/lockers for commercial facilities;
- Consider a pricing strategy for non-residential parking places; and
- Work with Bay Area Car-Share programs to implement the program within the project.

2. If feasible, require that new buildings be energy efficient, by requiring Leadership in Energy and Environmental Design (LEED) certification, or demonstration of design to equivalent standards in terms of energy efficiency, that reduces energy consumption by at least 20 percent compared to typical new buildings. (The proposed project has received a “Gold” LEED-ND (Neighborhood Development) rating, but not based on Green Building standards.)

3. Provide exterior electrical outlets to encourage use of electric powered landscape equipment.

It should be noted that a majority of the ROG emissions from the proposed project would be produced from consumer products (e.g., paints, solvents, hairsprays, charcoal fluids, etc.). There are no project-specific mitigation measures to reduce these emissions. The CARB controls these emissions by setting standards for various products, so these emissions are anticipated to be reduced in the future; however, the URBEMIS2007 model does not account for these anticipated reductions.

(continued)

Mitigation 5-2 (continued):

Implementation of these measures would reduce project-related and cumulative impacts on long-term regional ROG, NO_x, and PM₁₀ emission levels by up to 8 percent, depending on the specific measures enacted; however, since reductions of over 30 percent would be required to bring project-related regional emission increases to below draft-BAAQMD significance thresholds, the project and cumulative effects on ROG, NO_x, and PM₁₀ emission levels would represent a ***significant unavoidable project and cumulative impact***.

Project Relationship to Applicable Clean Air Plan (CAP). The most current Clean Air Plan (CAP), the *2010 Bay Area Clean Air Plan*, was adopted by BAAQMD on September 15, 2010. This plan is based on population projections compiled by the Association of Bay Area Governments (ABAG). The project proposes new residences, retail uses, and office uses for a site that has been envisioned in the Hercules General Plan for these types of uses. The project site, as described in the Waterfront District Master Plan, would be consistent with ABAG projections for the Waterfront District.¹ As a result, the project would not increase population greater than anticipated under current planning assumptions, which are used to develop clean air planning strategies. Therefore, the project would not affect population forecasts that would affect regional air quality planning efforts. The proposed project is considered consistent with the CAP, and this impact is considered ***less-than-significant*** (see criterion [a] in subsection 5.3.1, Significance Criteria, above).

Mitigation. No significant impact has been identified; no mitigation is required.

¹ABAG, *Projections and Priorities 2009: Building Momentum*, August 2009, page 58.

and fill of waters of the U.S. for a variety of routine activities such as minor road crossings, utility line crossings, streambank protection, recreational facilities, and outfall structures. To qualify for a nationwide permit, a project must demonstrate that it has no more than a minimal adverse effect on the aquatic ecosystem, including species listed under the ESA. Nationwide permit qualification typically means that there will be no net loss of either habitat acreage or habitat value, and appropriate mitigation where fill activities are proposed.

CDFG jurisdictional authority over wetland areas is established under Section 1600 of the Fish and Game Code, which pertains to activities that would disrupt the natural flow or alter the channel, bed, or bank of any lake, river, or stream. The Fish and Game Code stipulates that it is unlawful to substantially divert or obstruct the natural flow or substantially change the bed, channel or bank of any river, stream or lake without notifying the CDFG, incorporating necessary mitigation, and obtaining a Lake and Streambed Alteration Agreement. The Wetlands Resources Policy of the CDFG states that the Fish and Game Commission will strongly discourage development in or conversion of wetlands, unless, at a minimum, project mitigation assures there will be no net loss of either wetland habitat values or acreage.

In addition, the Water Board is responsible for upholding state water quality standards. Pursuant to Section 401 of the CWA, a project that applies for a USACE permit for discharge of dredge or fill material must also secure a certification or waiver from the Water Board, including projects that qualify under the Nationwide Permit program. The Water Board is also responsible for regulating wetlands under the State Porter-Cologne Act, which may include hydrologically isolated wetlands no longer regulated by the USACE under Section 404 of the Clean Water Act.

6.1.2 Existing Biological Resource Conditions on and Adjacent to the Project Site

(a) Vegetation and Wildlife. Existing biological resources and habitat types on the project (Hercules Bayfront) site and ITC project site are diagrammed on Figure 6.1. As illustrated on Figure 6.1 and described in sections 3.2.1 (City history) and 8.1.6(d) (Historical Background and Resources) of this Draft EIR, the project site and the surrounding Hercules waterfront vicinity have been extensively modified by past industrial activities, flood control improvements, and more recently, grading associated with remediation of contaminated soils and site surcharging necessary to implement the City-adopted WDMP. The majority of the project site is devoid of vegetation or supports a sparse cover of introduced non-native grassland and ruderal (weedy) species; however, the ITC site, including segments of Refugio Creek and the North Channel, continue to support native marshland and riparian vegetation, and provide important adjacent habitat for aquatic and terrestrial species. Figures 6.2 through 6.5 illustrate in more detail the existing wetland features on the project site and ITC site, as identified in the May 2010 Preliminary Jurisdictional Delineation prepared by HDR, Inc.,¹ and listed on page 6-1 herein (the HDR preliminary wetland delineation included the Hercules Bayfront project site in its scope). No wetland features exist on the Hercules Bayfront Project site itself.

(1) *Non-Native Grassland.* As illustrated on Figure 6.1, most of the project site supports a cover of ruderal grassland, composed primarily of non-native grasses and forbs. Characteristic species include: wild oats (*Avena barbata*), fennel (*Foeniculum vulgare*), mustard (*Brassica nigra*), soft chess (*Bromus hordeaceus*), ripgut brome (*Bromus diandrus*), Italian ryegrass (*Lolium perenne*), hare barley (*Hordeum murinum* ssp. *leporinum*), Harding grass (*Phalaris*

¹HDR, Inc., *City of Hercules Intermodal Transit Center Preliminary Jurisdictional Delineation*, May 2010.

aquatica), rose clover (*Trifolium hirtum*), wild radish (*Raphanus sativus*), and yellow star thistle (*Centaurea solstitialis*). A few planted landscape trees and shrubs remain around the vacant Clubhouse Building in the southern portion of the site. Scattered shrubs of native coyote brush (*Baccharis pilularis*) occur in less disturbed areas of the grassland and on the margins of the Refugio Creek corridor.

(2) *Refugio Creek and North Channel.* As illustrated on Figure 6.1, Refugio Creek on the ITC site is a tidally influenced perennial stream that flows directly into San Pablo Bay. The creek is no longer a natural drainage channel, having been originally straightened, deepened and channeled by the Hercules Powder Company in the early 1900s, and most recently altered in the early 2000s as part of upstream development activity.

As illustrated on Figure 6.4, vegetation along the creek channel within the ITC site consists of a mosaic of coastal brackish marsh, freshwater marsh, and non-native grassland. Given the tidal influence at this downstream end, the channel segment is characterized by salt-tolerant plants, such as pickleweed (*Sarcocornia pacifica*) and saltgrass (*Distichlis spicata*), forming stands of brackish marsh. As illustrated on Figure 6.4, the upper portion of this adjacent channel segment is characterized by less salt-tolerant plants, such as cattails (*Typha* spp.) and common tule (*Schoenoplectus acutus*). Some seasonal wetland features also occur on the level terraces that border the incised, active creek channel.

As also illustrated on Figure 6.4, vegetation along the North Channel segment within the ITC site is dominated by a mixture of native brackish marsh, willow (*Salix lasiolepis*) scrub, and freshwater marsh species. Pickleweed forms the dominant groundcover along the lower portion of this North Channel segment, indicating relatively high salinity levels. Willows dominate the eastern portion of this North Channel segment, most likely supported by irrigation runoff that feeds the channel. Willows are largely absent along the western portion of this North Channel segment where the proposed extension of John Muir Parkway would cross the channel (see Figures 6.4 and 3.6). Vegetative cover along the margins of this North Channel segment are dominated by ruderal non-native grassland.

Pickleweed ~~brackish~~ marsh and freshwater cattail marsh habitats along the adjacent edges of Refugio Creek and the North Channel occupy approximately 0.68 and 0.55 acres of land area, respectively.

(3) *Seasonal Wetlands.* As illustrated on Figure 6.4, several patches of non-tidal freshwater seasonal wetlands areas occur in shallow depressions along terraces within the adjacent Refugio Creek corridor and along the adjacent segment of the North Channel. Some of the depressions are the result of human activities. In shallower depressions, vegetation is dominated by bristly ox-tongue (*Pichris echiodes*), Italian ryegrass, and curly dock (*Rumex crispus*). Deeper depressions, often bounded by soil deposit berms, support more hydrophytic species, such as rabbitsfoot grass (*Polypogon monspeliensis*) and rough cocklebur (*Xanthium strumarium*). Such seasonal wetland habitat occupies approximately ~~0.090~~ 0.12 acres of shared facilities area, ~~the adjacent Refugio Creek and North Channel corridors, and approximately 0.03 acres of the adjacent railroad right-of-way.~~

(4) *Unvegetated Ponded Depressions.* As also illustrated on Figure 6.1, several seasonally ponded depressions, or intermittent “puddles,” occur within the adjacent railroad right-of-way. The intermittent puddles are generally devoid of vascular vegetation and occur within

depressions in compacted dirt and gravel. The puddles can reach a maximum depth of six inches in the winter, with most not exceeding three inches in depth. None of the unvegetated

ponded depressions occur within the anticipated limits of grading associated with proposed Hercules Bayfront Project improvements. Most of these features would be eliminated during implementation of the proposed adjacent ITC project improvements along the railroad right-of-way.

(5) *Wildlife*. Past disturbance has substantially reduced project site wildlife habitat value, but the Refugio Creek and North Channel corridors within the adjacent ITC site continue to provide important cover for aquatic and terrestrial species. Areas of dense marsh and willow along these two adjacent channel segments provide suitable roosting, foraging, and possibly nesting substrate for numerous species of birds. Species typically associated with these two adjacent riparian corridors and adjacent uplands include: red-wing blackbird, sparrows and other songbirds, as well as egrets and herons, aquatic garter snake, Pacific chorus frog, western toad, raccoon, striped skunk, and black-tailed deer. Wading birds and waterfowl could also forage in the scattered on-site seasonal wetlands and depressions when they hold water. Small mammals and reptiles common in grassland and ruderal habitats may occur in project site areas of denser grassland cover and along the adjacent drainage channels, such as California vole, black-tailed jackrabbit, pocket gopher, fence lizard, and gopher snake. Introduced species, such as red fox and wild turkey, have also been observed in the project site vicinity. A number of raptors may forage in the remaining grasslands and marshlands on the site and surrounding area, including northern harrier, white-tailed kite, American kestrel, and red-tailed hawk. However, no onsite evidence of any large nests typical of raptors was observed during field reconnaissance surveys of the site or past studies of the area.

The two vacant buildings on the project site could provide suitable nesting and roosting habitat for barn owls and other birds, Norway rat and house mouse, and possibly one or more species of bats. An inspection of both buildings by the EIR consulting biologist revealed limited signs of bat use but no evidence of any major colonial roosting activity.

The onsite and adjacent seasonal wetlands and depressions provide habitat for aquatic invertebrates, such as versatile fairy shrimp (*Branchinecta lindahli*), daphnia, seed shrimp, water boatmen, midge larvae, and mosquito larvae. Birds and other wildlife may also utilize these seasonal wetland areas for foraging when water is present, but these features provide only limited habitat for vertebrates. As indicated in Table 6.1 and further described below, these seasonally wet areas contain only marginally suitable habitat characteristics for listed special status invertebrates, such as vernal pool fairy shrimp (*Branchinecta lynchi*). This federally listed special status species was not detected on the site or vicinity during past surveys in 2003, 2004, and 2007, 2009/2010, and 2010/2011. Supplemental detailed surveys are currently being conducted to confirm the absence of this special status species, as discussed below under "Special-Status Species."

(b) *Special-Status Species*. Review of the California Natural Diversity Data Base (CNDDDB) records of the CDFG indicates that a number of special-status species have been reported within the project vicinity--i.e., the northwest area of Contra Costa County and west Hercules.

Table 6.1 lists the special-status plant and animal species considered to have the greatest potential for occurrence in the west Hercules vicinity; the table also identifies the species, status, typical habitat characteristics, and likelihood of occurrence on the project site. These consist of 12 special-status plant species and 30 special-status animal species. As indicated in

Onsite and adjacent seasonal wetlands and ponded depressions were surveyed for vernal pool branchiopods in 2003 and 2004,¹ and in 2007,² given the marginal habitat these onsite features provide, particularly for the federally listed vernal pool fairy shrimp. No federally listed vernal pool branchiopods ~~have been~~ were found during any of the past surveys. Supplemental surveys ~~are~~ were ~~currently being conducted~~ by HDR, Inc. during the 2009/2010 and 2010/2011 wet seasons to confirm the presence or absence of any listed branchiopods on the ~~site~~, adjacent creek corridor, and adjacent railroad right-of-way; ~~to date~~, none have been found during ~~this~~ these latest seasonal ~~of~~ surveys.

(c) Sensitive Natural Communities. Vegetation communities (habitats) are generally considered “sensitive” if: (a) they are considered rare within the region by jurisdictional agencies including the USFWS, CDFG, and other agencies; (b) they are known to support sensitive animal or plant species; and/or (c) they are known to serve as important wildlife corridors. The adjacent shared facilities sites contain one commonly-defined sensitive natural community, Coastal Brackish Marsh. Coastal Brackish Marsh covers the banks of Refugio Creek.

Coastal Brackish Marsh is brackish from freshwater input, and is usually found at the interior edges of coastal bays and estuaries or in coastal lagoons. It is typically dominated by pickleweed, saltgrass, alkali heath, and creeping wildrye, and is primarily represented by pickleweed brackish marsh on the adjacent banks of Refugio Creek. Coastal Brackish Marsh is considered a sensitive natural community because it provides foraging, cover, nesting, and roosting habitat for a variety of birds, mammals, reptiles, and amphibians. Some species are year around residents to this habitat and others are winter visitors that rely on these habitats for cover and foraging. In addition, a number of species from adjacent uplands may visit the wetlands to feed.

The willow scrub along the North Channel, is also recognized as a sensitive adjacent natural community type.

Figures 6.1 through 6.5 show the extent of these natural community types in the project site vicinity.

(d) Potential Jurisdictional Waters. No jurisdictional waters have been identified on the Hercules Bayfront Project site itself. The extent of jurisdictional waters on the Hercules Bayfront Project site and adjacent ITC project site have been mapped as part of a delineation by Vollmar Consulting in 2007 and an updated draft delineation conducted in 2010 by HDR, Inc.³ The delineation by Vollmar Consulting was verified by the USACE in 2008,⁴ with the delineation study area generally encompassing the western one-third of the Refugio Creek corridor, some of the northwestern portion of the Hercules Bayfront Project site, and frontage along the railroad right-of-way. The 2010 delineation by HDR, Inc. has not yet been verified by the USACE, but appears to provide an accurate depiction of the extent of potential jurisdictional wetlands and waters in the project vicinity ~~on the site~~, based on the peer review conducted by the EIR

¹Condor Country Consulting, 2004, *ibid.*

²Vollmar Consulting, 2007, *ibid.*

³HDR Engineering, Inc., 2010, *ibid.*

⁴U.S. Army Corps of Engineers, 2008, *ibid.*

consulting biologist. Figures 6.1 through 6.5 show the areas encompassing both the verified and draft updated wetland

delineations for the project site and vicinity, together with the mapped extent of known and potential jurisdictional waters.

As indicated on Figures 6.1 through 6.5, jurisdictional waters in the project site vicinity are limited to the "other waters" of the adjacent segments of Refugio Creek and the North Channel, which are generally devoid of wetland vegetation, and the scattered areas of brackish marsh, freshwater marsh, and seasonal wetlands along these drainage features. Seasonal wetland and unvegetated depressions were also mapped by Vollmar Consulting in the heavily disturbed area along the north side of Refugio Creek and along the railroad right-of-way. Collectively, the area of jurisdictional waters occurring on the project site and adjacent areas that could potentially be affected by the proposed project shared facilities improvements totals approximately 1.85 acres. Table 6.2 provides a summary of these identified on-site and adjacent jurisdictional features, consisting of approximately 0.5 acres of largely unvegetated other waters along the two drainages, 0.68 acres of pickleweed brackish marsh, 0.55 acres of cattail-dominated marsh, and 0.12 acres of seasonal wetland and unvegetated depressions.

6.2 PERTINENT PLANS AND POLICIES

6.2.1 City of Hercules General Plan

In addition to the previously-described jurisdictional protections provided by federal and State regulations, such as the federal and State ESAs and the State CWA, the local policies and ordinances of the City of Hercules also recognize the importance to the community of preserving sensitive biological and wetland resources. These include the relevant objectives, policies, and programs in the *Open Space/Conservation Element* of the Hercules General Plan listed below. In addition, one program from the General Plan *Land Use Element* provides specific setback recommendations from lower Refugio Creek relevant to the project site. Where any aspect of the proposed project is found in this EIR to be potentially inconsistent with one or more of these City objectives, policies, or programs, a potentially significant environmental impact and one or more associated mitigations is identified for incorporation into the project to reduce the impact and better implement the General Plan. Otherwise, the proposed project is considered consistent with the City objectives, policies, and programs listed below.

Land Use Element

- *Require a minimum 50-foot setback between development and the "top of bank" of the lower Refugio Creek and Rodeo Creek corridors, except that the setback may be reduced for the west branch of Refugio Creek if the 50-foot setback proves infeasible. This buffer will be included as part of any enhancements required by regulatory agencies or proposed by the developer. Riparian areas which are culverted or underground will be excluded from the buffer requirement. (Program 14A.4)*

Open Space/Conservation Element

- *Preserve seasonal freshwater wetlands. (Objective 2)*

Table 6.2
**KNOWN AND POTENTIAL JURISDICTIONAL WETLANDS AND OTHER WATERS LOCATED
 ON SITE AND ADJACENT RAILROAD RIGHT-OF-WAY SHARED FACILITIES
 AREAS**

Feature	USACE Jurisdictional Area (Acres/Square Feet) ¹
<i>Wetland Features</i>	
Pickleweed Brackish Marsh ²	0.68/29,833
Cattail Marsh ²	0.55/23,919
Seasonal Wetland	0.12/5,192
Wetland Features Subtotal:	1.35/58,944
<i>Other Waters</i>	
Brackish Stream (Refugio Creek/North Channel)	0.44/19,406
Freshwater Intermittent Drainage	0.06/2,603
Other Waters Subtotal:	0.5/22,009
Total Acreage of Known and Potential Jurisdictional Wetlands and Other Waters	1.85/80,953

SOURCE: HDR Engineering, Inc., 2010.

¹ Acreage calculations were rounded to the nearest hundredth of an acre.

² Willow scrub riparian areas are not identified as a separate wetland type because the footprint of this habitat type is encompassed by mapped areas of brackish marsh and cattail marsh.

- *The City shall require project proponents to design construction footprints to avoid any wetlands and buffer zones around the wetlands. If avoidance is not possible projects shall be redesigned so as to impact the least amount of wetlands. Any areas that are classified as wetlands and will be affected by project development shall be recreated either on or off site in accordance with CDFG and COE [Corps of Engineers]. (Policy 2a)*
- *Prior to construction in areas of wetlands, the City shall support CDFG and Corps permitting process. A project sponsor shall be required to obtain a Streambed Alteration Agreement from CDFG and/or a Section 404 Corps permit prior to any development within any wetland. (Program 2a. 1)*
- *If flood control improvements are required along Refugio Creek, the City shall work with the Corps to create the flood control area wide enough to provide for establishment within the flood control area of native vegetation to provide for wildlife habitat. The City shall allow a transition area between proposed land uses and this natural community, as described in Program 13B of the proposed Land Use Element. (Program 2a.2)*
- *Protect the Refugio Creek riparian corridor from encroaching development. (Objective 3)*

construction fencing and erosion control Best Management Practices (BMPs) to protect the adjacent Refugio Creek and North Channel corridors. Vegetation in onsite areas to be developed would be grubbed and removed, followed by final grading, infrastructure installation, and building construction. ~~Scattered seasonal wetland features and wetland depressions within the project onsite development area would be eliminated, as would the e~~Existing ruderal grassland habitat occupying portions of the proposed development footprint would be eliminated.

Hercules Bayfront Project construction activities adjacent to Refugio Creek and the North Channel are proposed to be isolated as necessary to protect the active channels and minimize disturbance to adjacent habitat; however, the adjacent Refugio Creek and North Channel corridors would be modified as part of the comprehensive channel realignment and restoration program under the ITC project (see section 6.3.3 below).

6.3.3 Relevant Off-Site Drainage Proposals

(a) ITC Project Drainage Modifications. Refugio Creek would collect runoff from the proposed Hercules Bayfront Project. The proposed adjacent ITC project includes realignment and restoration of Refugio Creek from San Pablo Bay upstream approximately 1,000 feet to the existing restored segment of the creek. The realignment would require construction of a new, higher capacity outlet to San Pablo Bay. The rerouting of the terminus of Refugio Creek would also require construction of a new channel undercrossing of the new UPRR bridge right-of-way, as part of the ITC project. The existing Refugio Creek and culverts near the existing rail bridge would be filled. The new railroad bridge would be supported by a concrete pile. Bridge abutments would be constructed outside of the creekbed and banks. New riprap slope protection would be installed to protect the bridge abutments through the UPRR prism.

The channel area realignment component of the ITC project would include construction of the new Transit Loop Bridge and Bayfront Bridge. The creek upstream of the two new bridges would be improved by cutting back the existing slopes and constructing a new creek embankment to the west. The existing creek culverts and bends near the existing rail bridge would be eliminated, the creek straightened, and the new higher capacity outlet to San Pablo Bay constructed.

A new meandering low-flow channel of Refugio Creek and enlarged marsh would be incorporated as part of the creek channel realignment, restoration and enhancement program in order to improve hydraulic and ecological function. The enlarged marsh would increase the floodplain width to a maximum of approximately 200 feet upstream of the proposed Bayfront Bridge. These ITC project channel restoration and flood control improvement components would connect with the portion of Refugio Creek upstream of the Waterfront District that was similarly restored in December 2000.

The revegetation components of the proposed ITC project creek channel realignment and restoration component are expected to include creation of enhanced wetland and upland habitat values along both the Refugio Creek and the North Channel. The existing and planned expanded terrace areas that will border the active channels will provide opportunities to increase the extent of jurisdictional wetlands ~~on the site~~ and mitigate any loss of jurisdictional waters associated with the both the ITC project (including the channel realignment component) ~~and the Hercules Bayfront Project~~. The ITC project is expected to include a proposed approach to the wetland creation and enhancement activities, identifying acreage estimates for newly

Mitigation 6-2: Prior to any project or shared facility construction activity in or within 500 feet of Refugio Creek tidal marsh habitat, a biologist meeting the qualifications criteria of the CDFG (for state-listed CSC species) shall conduct a preconstruction survey for salt marsh wandering shrew and San Pablo vole. If either species is detected within this zone, CDFG shall be contacted regarding appropriate measures to relocate the individuals outside the zone or protect the occupied habitat. If no individuals are found during the preconstruction survey, onsite construction impact avoidance measures, such as installation of exclusion fencing, shall be installed around the perimeter of the subject tidal marsh to prevent species individuals from entering the construction area or being harmed by construction activities. The location and design specifications of the exclusionary fencing or alternative measure shall be submitted to the CDFG for review and approval. The qualified biologist shall monitor installation of the fencing or alternative measure to ensure proper installation and total exclusion of the two species, as well as to insure that no individuals are harmed during installation.

A CDFG approved biological monitor will be present during construction activities within and immediately adjacent to the tidal marsh habitat. The biological monitor shall have the authority to stop construction activities if an individual of these species is found within the construction area. If an individual of either species is found on the project or shared facility site during construction, work will immediately cease in the vicinity and the CDFG will be notified.

Key Construction personnel shall participate in a CDFG-approved worker environmental awareness program. A qualified biologist would inform key construction personnel about the life history of these two species and their potential presence in the project area and explain the state and federal laws pertaining to protecting this species and its habitat. Construction personnel would be informed of the presence of a biological monitor and receive instruction regarding reporting requirements if an individual of either species is found during construction.

Implementation of these measures would reduce this impact to a ***less-than-significant level***.

Impact 6-3: Potential Inadvertent Project Take of Vernal Fairy Shrimp.

Although no evidence of presence has been detected, marginal habitat for the vernal pool fairy shrimp occurs in the seasonal pools and depressions within ruderal habitats on the project and shared facilities sites, and there remains a remote possibility that vernal pool shrimp could be harmed by project or shared facility construction activities. Such a possible "take" of this federal threatened species represents a ***potentially significant impact*** (see criteria [a] and [g] in subsection 6.3.1, "Significance Criteria," above).

Mitigation 6-3: ~~Complete p~~Preconstruction fairy shrimp surveys were completed in winter 2010/2011 within suitable habitats for vernal pool fairy shrimp (VPFS); no VPFS were found. ~~If VPFS are detected during surveys, notify the USFWS and implement appropriate avoidance and mitigation measures prior to commencement of construction within or adjacent to the VPFS occupied habitat. If~~Because no VPFS are were found, no further mitigation will be necessary. ~~Implementation of this measure would reduce this and the~~ impact to a is ***less-than-significant level***.

Impact 6-4: Potential Inadvertent Project Take of Steelhead, Western Pond Turtle or California Red-Legged Frog. Although suitable habitat for the federal-listed steelhead, state-listed western pond turtle (WPT), or the state- and federal-listed California red-legged frog (CRLF), is generally absent on and near the project and shared facilities sites, there remains a remote possibility that they could be impacted by project-related vegetation removal and shared facilities in-channel construction activities, resulting in the inadvertent “take” of the species. This possibility represents a ***potentially significant impact*** (see criteria [a] and [g] in subsection 6.3.1, “Significance Criteria,” above).

Although considered “unlikely” (see Table 6.1), there is a possibility that the adjacent segment of Refugio Creek could provide marginally suitable dispersal habitat for the state- and federally-listed California red-legged frog, the federally-listed steelhead, and the state-listed western pond turtle. Similarly, the willow scrub cover along the adjacent segment of North Channel provides marginal dispersal habitat for California red-legged frog, although this drainage does not contain suitable aquatic habitat for western pond turtle. Pre-construction surveys and construction zone exclusion practices would serve to avoid potential take of California red-legged frog, steelhead, and western pond turtle in the remote instance that these species were present or were to disperse onto the site in the future. Implementation of these measures as part of the project would serve to adequately avoid any inadvertent take of listed species. Areas disturbed during construction would be restored and enhanced as part of the ITC Pproject creek restoration and enhancement component, and would eventually serve to improve habitat conditions for these species. However, given the remote potential for inadvertent loss of individuals during in-channel construction, and the fact that California red-legged frog and steelhead are federally-listed species, this is considered a ***potentially significant impact*** under criteria [a] and [g] in subsection 6.3.1, “Significance Criteria,” above.

Mitigation 6-4. Implement the following measures to address the potential for a project-related inadvertent “take” of steelhead, California red-legged frog, and western pond turtle on the project site or adjacent shared facilities sites during construction.

A biologist meeting the qualifications criteria of the USFWS (for federally listed threatened species) and the CDFG (for state-listed CSC species) shall be retained to oversee construction within Refugio Creek and the North Channel and ensure that no inadvertent take of steelhead, California red-legged frog, or western pond turtle occurs as a result of a project-related short-term disturbance to Refugio Creek and the North Channel.

The qualified biologist shall conduct USFWS-, NOAA- and CDFG-protocol pre-construction surveys to confirm absence or presence of any steelhead or California red-legged frog or western pond turtle, on segments of Refugio Creek and the North Channel where adjacent project-related improvements are proposed. In the remote instance that listed steelhead or California red-legged frog individuals are encountered, the USFWS and NOAA Fisheries shall be consulted to determine appropriate avoidance measures prior to initiation of any project-related construction activities. These measures could include installation of temporary construction fencing, additional surveys and monitoring, and other measures.

To avoid potential impacts to encountered Central California steelhead that may seasonally disperse along Refugio Creek, in-water construction shall not occur between October 15 and June 15.

The USFWS-protocol pre-construction surveys for California red-legged frog shall be conducted prior to any project-related construction activities to ensure that this species is not actively using the site or vicinity as a dispersal corridor. The pre-construction surveys shall be conducted by a qualified biologist familiar with all life stages of the frog and shall cover all aquatic habitats on and near the site suitable for dispersal. Prior to conducting the pre-construction surveys, the USFWS shall be notified of the intent to conduct California red-legged frog pre-construction surveys and provided with the names and qualifications of surveyors. The pre-construction surveys for California red-legged frog shall not commence until survey approval is received by the USFWS.

If any life stage of California red-legged frog (e.g., egg mass, tadpole, frog) is detected in the construction zone during the surveys, the USFWS shall be notified regarding the presence of the California red-legged frog. A plan shall be developed in consultation with the USFWS to relocate the California red-legged frog individuals

(continued)

EIR preparers on June 15, 2010 by WRA Environmental Consultants.¹ Based on the survey, the Clubhouse and Administration Buildings have been determined not to support maternity roosting or hibernating bats. Nevertheless, there remains a possibility that these two vacant buildings could be used as a seasonal or maternal roost. Renovation of the structures is proposed as part of the project, which would eliminate any bat roosts if present in the buildings. Special-status bat species are particularly vulnerable to human disturbance, and if construction were to occur during the maternity roosting season, young bats incapable of flight could be inadvertently destroyed. Suitable roosting habitat is difficult to recreate, particularly for most special-status bat species.

Mitigation 6-5. Implement the following measures to avoid potential project impacts on roosting bats:

(1) The Clubhouse and Administration Buildings have been determined not to support maternity roosting or hibernating bats. Regular monthly maintenance of the buildings may continue; however, all potential points of ingress should be sealed in the interim, using screens, wood, caulking or the like to prevent bats from colonizing until the renovation is complete.

(2) A CDFG-protocol pre-construction survey for roosting bats shall be conducted by a biologist meeting the qualifications criteria of the CDFG within 14 days prior to the commencement of building renovation. To determine presence or absence of bats, the survey shall be conducted by a biologist with experience surveying for bats. If no special-status bats are identified during the pre-construction survey, then no impacts to these CSC bats would be expected to occur from building renovation.

If, however, any special-status bats are identified in the structures, all disturbance activities within the structure and within 200 feet should be halted and remain halted until (a) the roost is vacated, or (b) the CDFG has been notified and consulted to develop alternative measures. At present, there are no CDFG standard guidelines for the mitigation and removal of bat species. Bat guidelines specifics for the project would be prepared by ~~WRA~~ the qualified biologist in collaboration with CDFG and Western Bat Working Group biologists to determine if protection measures are adequate, or if replacement for loss of occupied habitat is required.

Implementation of these measures to CDFG satisfaction would reduce this impact to a ***less-than-significant level***.

¹WRA Environmental Consultants, Hercules Bayfront, LLC, Bat Roost Technical Report II, Hercules Bayfront Project, prepared for Wagstaff/MIG; June 15, 2010.

Impact 6-6: Potential Loss of Sensitive Marsh Habitat Communities. Shared facility construction activities within the Refugio Creek and North Channel corridors would result in disturbance and loss of two federal special-status and state-listed sensitive natural communities in these areas: Coastal Brackish Marsh Habitat (pickleweed brackish marsh) covering the banks of Refugio Creek, and brackish stream habitat within the Refugio Creek channel, representing a **significant impact** (see criterion [b] in subsection 6.3.1, "Significance Criteria," above).

Construction of the proposed creek realignment, restoration and enhancement program, and associated proposed new crossings of Refugio Creek and the North Channel, shared facilities which are necessary to support the proposed Hercules Bayfront Project, would affect areas of existing Coastal Brackish Marsh (pickleweed brackish marsh) habitat occurring within the banks of the creek. This habitat type is considered sensitive and also constitutes waters of the U.S. regulated by the USACE and USEPA under section 10/404 of the federal Clean Water Act. Similarly, construction activities would affect areas of existing brackish and freshwater marsh, which are considered sensitive natural community types by the CDFG.

A restoration plan is currently being prepared for the proposed ITC project for lower Refugio Creek and is expected to result in no net loss of brackish marsh habitat and brackish stream habitat within Refugio Creek (see Mitigation 6-7 below).

Mitigation 6-6. Implement *Mitigation 6-7*. Implementation of *Mitigation 6-7* regarding replacement of jurisdictional wetlands would also serve to address potential impacts on sensitive marsh habitat communities, and would reduce this impact to a **less-than-significant level**.

Impact 6-7: Project-Related Potential Loss and Modifications to Jurisdictional Wetlands and Other Waters. ~~An estimated 0.24 acres of jurisdictional waters would be lost or disturbed as a result of the proposed filling of wetlands and other waters to accommodate improvements associated with the Hercules Bayfront Project, , and a~~ An estimated 1.3785 acres of jurisdictional waters would be lost or disturbed as a result of the proposed shared facilities project-related construction (e.g., --i.e., construction of the Refugio Creek and North Channel realignment, restoration and enhancement program, and John Muir Parkway, and Bayfront Boulevard extensions, and Bay Trail extensions), representing a **significant impact** (see criteria [c] and [g] in subsection 6.3.1, "Significance Criteria," above).

Hercules Bayfront Project onsite trail, roadway, and building components would all be restricted to locations outside the reconstructed top of bank (see Figure 3.5 in chapter 3, Project Description, of this EIR). Chapter 22 of the Hercules Zoning Ordinance, "Refugio Creek Overlay District", mandates a 50-foot setback between development and the top of bank of lower Refugio Creek, unless the 50-foot setback proves infeasible as decided by the City (see full policy in subsection 6.2.1). The extensive long-term modifications to the Refugio

Creek channel that would occur as part of the creek restoration and enhancement program, as well as the Bay Trail extension.

are considered supporting infrastructure necessary to implement the proposed Hercules Bayfront Project (see EIR subsection 3.6). ~~Nevertheless, an estimated 0.241.85 acres of jurisdictional waters would be filled or modified as a result of proposed shared facilities onsite Hercules Bayfront Project construction activities, and approximately 1.37 acres as a result of shared facilities construction--i.e., e.g., the Refugio Creek and North Channel realignment, restoration and enhancement project, and John Muir Parkway and Bayfront Boulevard extensions, and Bay Trail extension (see Table 6.2).--These fill impacts would consist of: (1) filling of an estimated 0.03 acres of scattered seasonal wetlands and depressions in the western portion of the site and along the railroad right-of-way to accommodate the grade separation and retaining wall adjacent to the ITC site; (2) filling an estimated 0.06 acres of marsh and 0.02 of unvegetated freshwater drainage to accommodate the new earthen bottom drainage culvert under John Muir Parkway; and (3) disturbance to an estimated 0.06 acres of Refugio Creek and 0.07 acres of adjacent brackishwater marsh to accommodate the Bayfront Bridge crossing.~~

The loss of these jurisdictional features would ultimately be mitigated--i.e., offset--through creation of expanded wetland habitat along the Refugio Creek and North Channel corridors, as part of the creek restoration and enhancement program formulated for the two projects and included in the ITC Pproject.

Mitigating for the loss of wetlands at the drainage crossings, and consolidating the replacement acreage for the scattered, low-value seasonal wetlands and depressions into the joint creek restoration and enhancement efforts, would serve to improve wetland functions and values by consolidating existing and created wetlands in one area. The proposed replacement of these jurisdictional waters would adequately mitigate their anticipated loss, provided that appropriate authorizations were granted from the jurisdictional agencies.

Proposed modifications to jurisdictional wetlands and waters would require authorization from the USACE, Water Board, and CDFG. The proposed bridge crossing over Refugio Creek, culvert crossing of the North Channel, and implementation of the creek restoration and enhancement program would all be activities regulated by these jurisdictional agencies. Opportunities to fully mitigate any loss of existing wetlands and waters appear to be feasible as part of the project-related creek restoration and enhancement program; however, because jurisdictional waters would be affected and authorizations are still required from jurisdictional agencies, this impact is considered *significant* under criterion [c] in subsection 6.3.1, "Significance Criteria," above.

Indirect impacts to wetlands and aquatic habitat also typically result from the increased potential for erosion and water quality degradation associated with urban development. Creation of impervious surfaces tends to magnify the volume of runoff and potential for urban pollutants, with perhaps the greatest potential damage resulting from sedimentation during the construction phase of a project and from new non-point discharge of automobile by-products, fertilizers, and herbicides. However, implementation of adequate erosion control measures, and incorporation of the numerous storm water runoff treatment methods called for in *Mitigations 11-1* and *11-2* in chapter 11 (Hydrology and Water Quality) of this EIR, would serve to address potential indirect impacts on wetlands and water quality. Additional discussion of project-related potential indirect impacts on wetlands and water quality is provided in chapter 11.

Mitigation 6-7. Implement the following measures to address project-related potential impacts on jurisdictional wetlands and waters:

Where verified waters of the U.S. are present and cannot be avoided, authorization for project-related modifications to these features shall be obtained from the USACE, Water Board, and CDFG. All conditions required as part of the authorizations by the USACE, Water Board, and CDFG shall be implemented as part of the project. Consultation or incidental take permitting may be required under the California and federal Endangered Species Acts. The applicant for these project-related modification activities shall obtain all legally required permits or other authorizations from the USFWS, NOAA Fisheries, and CDFG for the potential “take” of protected species under the Endangered Species Acts.

~~Prior to issuance of a grading permit for the Hercules Bayfront Project shared facilities construction that would potentially affect jurisdictional wetlands or waters, a consolidated Wetland Protection and Replacement Program shall be prepared by a qualified wetland specialist and approved by the jurisdictional agencies addressing the proposed onsite filling of scattered seasonal wetlands and depressions within the project site offsite shared facilities sites, (including the Refugio Creek and North Channel realignment and restoration, and related John Muir Parkway and Bayfront Boulevard extensions, and Bay Trail extension). The Program shall include appropriate implementation measures for these construction activities to prevent inadvertent loss and degradation of jurisdictional waters to be protected, and replacement for those features eliminated or modified. The Program should preferably be implemented as part of the proposed creek restoration and enhancement program.~~

~~Wetlands eliminated by onsite project development and by offsite shared facilities construction shall be replaced at a minimum 1:1 replacement ratio and shall be established in suitable locations within protected open space areas. The wetland replacement component shall emphasize establishment of native brackish and freshwater marsh habitat to enhance existing habitat values, and shall preferably be consolidated with other existing wetlands to be retained as part of the ITC project.~~

~~All wetland features within or adjacent to construction areas to be protected shall be flagged by a qualified biologist prior to any grading, and initial onsite and project-related offsite construction activities shall be overseen by the qualified biologist, including installation of temporary protective fencing and silt fencing.~~

~~The consolidated Wetland Protection and Replacement Program shall also define maintenance and long-term management responsibilities, monitoring requirements, and contingency measures. Monitoring shall be conducted by a qualified wetland specialist for a minimum of five years and continue until the success criteria are met.~~

(continued)

Mitigation 6-7 (continued):

In addition, an onsite Stormwater Pollution Prevention Plan (SWPPP) shall be prepared and maintained for the Hercules Bayfront Project addressing all water quality, sedimentation, and erosion aspects of the proposed project, as required under *Mitigation 11-1* in chapter 11, Hydrology and Water Quality, of this EIR. The SWPPP shall include dewatering the project reach of the Refugio Creek and North Channel during in-channel construction activities, details on use of coffer dams to dewater the in-channel construction zone, and methods to avoid introducing soil into the active channel.

Implementation of these measures would reduce this impact to a ***less-than-significant level***.

Impact 6-8: Invasive Species Impact. Construction of the proposed shared facilities could result in the spread of invasive species. This possibility represents a ***potentially significant impact*** (see criteria [a] and [b] in subsection 6.3.1, "Significance Criteria," above).

The upland habitats on the project site are currently dominated by non-native invasive species (ruderal vegetation). These species are abundant in disturbed habitats in the region. No mitigation is necessary for the existing occurrence of non-native upland species. However, there is a potential that non-native cordgrass or other non-native species could be introduced to the shared facilities construction sites as a result of construction disturbance to salt marsh and intertidal mudflats. If non-native cordgrass was introduced to these areas, it could spread and potentially competitively displace or hybridize with the existing native cordgrass. Additionally, any aquatic habitats disturbed by shared facilities construction could become rapidly colonized by non-native species. This would be a potentially significant impact.

Mitigation 6-8: Implement the following measures in order to prevent the introduction of non-native cordgrass and/or other non-native aquatic plant species to the shared facility sites:

- All construction equipment to be utilized in or adjacent to the intertidal mudflats and salt marsh habitats shall be thoroughly cleaned to remove dirt and weed seeds prior to being transported or driven to or from the project site.
- If any borrow soil or other stockpiled material (e.g., rock slope protection) to be placed in or adjacent to the intertidal mudflats and salt marsh habitats is transported to the project site from an offsite location, it shall be inspected for the presence of noxious weeds or invasive plants.
- If noxious weeds or invasive plants are present in imported materials, the contractor shall remove approximately five inches of the surface of the material from the borrow site before transporting to the project site.

Before removal, this material will be chemically or mechanically treated to kill the existing noxious weeds and invasive plants, and will not be used for the project without approval.

Implementation of these measures would reduce this impact to a ***less-than-significant level***.

Onsite Wildlife Habitat Loss and Obstruction of Wildlife Movement Opportunities. The onsite-habitat avoidance and minimization of potential impacts to sensitive wildlife habitat areas (such as jurisdictional wetlands and waters) required in the mitigations above for both the project and the shared facilities would serve to ensure that no potentially significant impacts on important wildlife habitat and movement corridors would occur as a result of the project and shared facilities. The limited habitat values of most of the project site, and the mitigations described above for the project and shared facilities including the offsite creek restoration and enhancement measures, would serve to ensure that potential impacts of the project and shared facilities on sensitive wildlife movement opportunities would be ***less-than-significant*** (see criteria [d] and [g] in subsection 6.3.1, "Significance Criteria," above).

Mitigation. No significant impacts on wildlife habitat and movement opportunities have been identified; no mitigation is required.

Conformance with Local Policies and Ordinances Protecting Biological Resources. The project and the associated mitigations described in this EIR chapter to mitigate its direct and indirect effects on biological and wetland resources, as discussed above under *Impact/Mitigation 6-1* through *Impact/Mitigation 6-5*, substantially conform with the relevant objectives, policies, and programs of the Hercules General Plan described in section 6.2.1 herein. The impact assessments and mitigation requirements identified above have been formulated to be consistent with relevant biological resource protection policies of the General Plan, including

Most of the project site is already extensively disturbed by past industrial uses. The sensitive resource areas along the adjacent Refugio Creek and the North Channel would be preserved and enhanced as part of the Hercules Bayfront Project (shared facilities) and/or the ITC project, serving to fully mitigate any project-related direct impacts on sensitive wetland resources. Wildlife in the immediate area has become relatively acclimated to human activity on and in the vicinity of the site, and the proposed development is not expected to disrupt important movement corridors or access to surrounding habitat. Habitat preservation and enhancement measures proposed along the Refugio Creek and North Channel corridors as described in this EIR chapter would serve to adequately address any project contribution to potential cumulative adverse impacts on biological and wetland resources. The mitigation measures identified above would ensure that the project's contribution to cumulative biological impacts would be ***less-than-significant***.

Mitigation. No significant cumulative biological impact has been identified; no mitigation is required.

Impact 7-1: Sea Level Rise Impacts on Project Development. Based on the BCDC sea level rise maps, the project may be affected by anticipated sea level rise and associated changes in broader flood plain boundaries. Potential impacts associated with future development that may be subject to sea level rise include risk to public safety and property damage, representing a ***potentially significant impact*** (see criterion [d] in subsection 7.3.1, "Significance Criteria," above).

As discussed in subsection 7.1.3(e) of this EIR chapter, portions of the project site may be vulnerable to both an approximately 16-inch sea level rise in San Pablo Bay by mid-century and an approximately 55-inch sea level rise in the Bay by end-of-century.

Mitigation 7-1. Before development proceeds, and as part of final development review, the City shall ensure that the development complies with the most current City requirements for protection from flood hazards, consistent with *Mitigation 11-4* in chapter 11 (Hydrology and Water Quality), of this EIR. These provisions would require compliance with associated storm drainage storage, building elevation, and flood-proofing requirements. In addition, the City shall require ~~at its discretion,~~ Hercules Bayfront Project construction of the shared Bay Trail facility retaining wall or, at the City's discretion, other similar barrier adjacent to the railroad tracks, which would also act as a sea level rise protection wall, if the wall is not built as part of the ITC project. Project construction, including mitigation measures, shall not prevent or impede future construction of the Bay Trail and related retaining walls. Implementation of these measures would be expected to reduce this impact to a ***less-than-significant level.***

8.3.2 Impacts and Mitigation Measures

Impact 8-1: Disturbance of Archaeological Resources. Project construction could disturb as yet unidentified and/or unrecorded sensitive prehistoric and/or historic archaeological resources on the project site. This possibility represents a ***potentially significant impact*** (see criteria [b] and [d] in subsection 8.3.1, "Significance Criteria," above).

Project development (e.g., individual site grading, utility trenching) could adversely affect one or more as yet unidentified and/or unrecorded prehistoric archaeological sites. As discussed in subsection 8.1.1(b) above, potential prehistoric archaeological resources have been identified in the project site vicinity, and the Waterfront District in which the site is located also has the potential to contain archaeological resources associated with the Hercules "Powder Works Period" (1879-1977).

Mitigation 8-1. Prior to construction, construction personnel shall be briefed regarding what to do in the event buried cultural materials are encountered. In accordance with policies and programs of the *Open Space/ Conservation Element* of the Hercules General Plan (specifically, Policy 12a and Program 12a.2), if cultural materials are encountered, the project applicant shall retain a qualified archaeologist approved by the City to monitor any demolition, excavation, or construction activities on the project site. The archaeologist shall have the authority to temporarily halt activities in the vicinity of a find if significant or potentially significant cultural resources are exposed and/or may be adversely affected by construction operations. Other procedures identified in Program 12a.2 shall be followed. If a significant cultural resource is identified through these procedures, the City and project applicant shall seek to avoid damaging effects on the resource. Preservation in place to maintain the relationship between the artifact(s) and the archaeological context is the preferred manner of mitigating impacts on an archaeological site. Preservation may be accomplished by:

- planning construction to avoid the archaeological site;
- incorporating the site within a park, green space, or other open space element;
- covering the site with a layer of chemically stable soil; or
- deeding the site into a permanent conservation easement.

When in-place mitigation is determined by the City to be infeasible, a *data recovery plan*, which makes provisions for adequate recovery of culturally or historically consequential information about the site, shall be prepared and adopted prior to any additional excavation being undertaken. Such studies shall be submitted to the California Historical Records Information System (CHRIS). If Native American

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As discussed in subsection 8.1.1(c) above, the Hercules General Plan identifies the former Administration Building and the former Clubhouse of the Hercules Powder Company as historic. A portion of the project site, including the Administration Building and the Clubhouse, is located in the Hercules Village Historic District, which is listed on the National Register of Historic Places. The Administration Building is also listed individually on the National Register of Historic Places.

Mitigation 8-2. In accordance with policies and programs of the *Land Use Element* of the Hercules General Plan (specifically, Policy 8A and Programs 8A.1 through 8A.3), the applicant shall develop plans to preserve and rehabilitate the two historic buildings on the project site. Working with a qualified architectural historian approved by the City, meeting the Secretary of the Interior's professional "Historic Architecture" standards published in the Code of Federal Regulations (36 CFR part 61), the applicant shall, to City satisfaction, incorporate measures that would improve the affected resources in accordance with either of the following publications:

- The Secretary of the Interior's *Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings*; or
- The Secretary of the Interior's *Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings*.

~~Each site shall be formally recorded on State of California primary record forms (form DPR 523) and applicable attachments. Prior to issuance of building permits for the historic building sites, the applicant shall prepare and submit a Historic American Buildings Survey (HABS), including large and medium format photographic documentation. The City shall use the California Historic Building Code (CHBC) for reviewing and issuing building permits.~~

~~In addition, a qualified, City-approved architectural historian shall submit a report to the City of Hercules Historical Architectural Review Board (HARB) finding conformance with the Secretary of the Interior's Standards. Pursuant to Chapter 20 of the Hercules Zoning Ordinance and the Hercules Design Guidelines for Historic Preservation, the City of Hercules Historical Architectural Review Board (HARB) shall exercise its authority to review and approve/disapprove proposed alterations, enlargements, or rebuilding affecting the exteriors of the Administration and Clubhouse buildings, the landscaping associated with those buildings, and the site plans and proposed new buildings to be located within the Hercules Village Historic District portion of the project site (generally Blocks A, C1, and C2).~~

Successful incorporation of these measures would supplement the City's existing General Plan policies and programs and would reduce the impact to a **less-than-significant level** (CEQA Guidelines section 15126.4[b]). (The Code of Federal

(continued)

Mitigation 9-1 (continued):

areas, and criteria for the compaction and treatment of on-site fills, shall be incorporated into the final project grading and foundation plans. In general, these recommendations are expected to include the following requirements:

- that all construction comply with the most current edition of the International Building Code;
- that all project structural designs be based on proper estimates by the project geotechnical engineer of peak and maximum repeatable earthquake-induced ground surface accelerations expected to occur on the project site; and
- that excavations be adequately sloped or shored in order to minimize ground movements.

Implementation of these measures to the satisfaction of the City, combined with conformance with standard International Building Code, State of California, City of Hercules, and other applicable regulations, would reduce the potential effects of ground shaking on the project to a ***less-than-significant level***.

For potential ground shaking impacts, the 1999 ENGEO report recommends, at a minimum, application of the International Building Code in coordination with “sound engineering judgment.”

Impact 9-2: Landslide, Slope Stability, and Erosion Hazards. The project would allow development in areas that may be subject to substantial landslide, slope stability, and erosion hazards, representing a ***potentially significant impact*** (see criteria [a] through [c] in subsection 9.3.1, “Significance Criteria,” above).

As discussed in subsection 9.1.4 above, slopes may be unstable on portions of the project site, including an area along the south-central border of the project site where a landslide was previously identified. Throughout the project site, grading that disrupts, compacts, or overcovers existing soil may cause erosion. In addition, construction of building pads and anticipated development of the Bay Trail segment and associated retaining wall (a shared facility with the ITC project) along the railroad right-of-way could result in unstable slope conditions.

Mitigation 9-2. The *detailed, design-level geotechnical investigation* required by the City under *Mitigation 9-1* herein shall include analysis of landslide, slope stability, and erosion hazards and recommend stabilization measures. The City shall also require preparation of a Preliminary Grading Plan and/or Preliminary Geotechnical Report, prepared by a licensed geotechnical engineer, before approval of project grading permits. The project geotechnical engineer shall determine the extent of any necessary landslide and slope stability remediation and shall direct remediation activities during project construction to ensure that any existing or potential future landslides and unstable slopes are fully stabilized. Mitigation measures (e.g., soil replacement, setbacks, and/or retaining walls, and/or similar barriers) ~~including the Bay Trail retaining wall shared with the ITC project~~, shall be required if needed to protect against damage that might be caused by slope failure. Such mitigation measures shall comply with the applicable provisions of Hercules General Plan *Safety Element* programs 2D.1 and 2D.2. The investigation shall be reviewed by a registered geologist acting on behalf of the City (not by a third-party reviewer retained by the applicant).

In addition, if the Hercules Bayfront Project proceeds before the ITC project, the project applicant shall ensure that the design of the Bay Trail and its any associated retaining walls or similar barriers shall remediate any slope stability hazards identified in the detailed, design-level geotechnical investigation, through a combination of slope reduction, slope protection, and other geotechnical measures (e.g., retaining wall design, cut slopes) to the satisfaction of the City Engineer.

Implementation of these measures to the satisfaction of the City, combined with conformance with standard International Building Code, State of California, City of Hercules, and other applicable regulations, would reduce the potential effects of landsliding and soil erosion on the project to a ***less-than-significant level***.

For potential landslide and erosion hazards, the 1999 ENGEO report recommends that portions of landslides and colluvium not removed in design cuts along slopes should be completely removed and replaced with properly drained engineered fill. The report notes that slope instability can generally be mitigated by proper grading. Please refer to chapter 11, Hydrology and Water Quality, for additional mitigation measures that address soil erosion impacts.

Impact 9-3: Expansive Soil Hazards. The project would allow development in areas that may be subject to substantial hazards from expansive soils, representing a ***potentially significant impact*** (see criterion [d] in subsection 9.3.1, "Significance Criteria," above).

As discussed in subsection 9.1.5 above, the project site is located in an area that has moderately to highly expansive soil (residual soils, colluvium, and landslide debris) that may

undergo significant volume changes (swell and compression) when subjected to varying moisture contents.

Unidentified seeps and streams that are buried under fills or exposed in cuts during dry-season construction could surcharge fills, weaken slopes, and oversaturate utility trenches when they reappear during the rainy season. In addition, future overwatering within landscape areas and the redirection of surface runoff onto otherwise stable slopes could cause similar concentrations of groundwater.

Mitigation 9-4. The *detailed, design-level geotechnical investigation* required at City discretion under *Mitigation 9-1* shall include analysis of the effects of grading plans on groundwater flow and recommend any necessary additional slope stabilization measures. ~~Educational materials that discourage overwatering in landscaped areas shall be furnished to all future lot owners and property managers at the time of purchase and periodically thereafter (perhaps by inclusion with water or tax bills), as part of an effort to control groundwater seepage.~~ On-site drainage systems shall be regularly maintained to ensure that storm water runoff is directed away from all slope areas. Implementation of these measures to the satisfaction of the City would reduce this potential effect to a ***less-than-significant level***.

For potential groundwater impacts, the 1999 ENGEO report recommends a temporary dewatering program during trenching and excavation activities.

Cumulative Geology and Soils Impacts. In addition to the project, other development unrelated to the project would continue to occur elsewhere in the city, county, and subregion. Geotechnical impacts related to future development would involve similar hazards associated with site-specific soil conditions, erosion, and ground shaking during earthquakes. The impacts on each site would be specific to that site and its users, and would not be common to or contribute to (or shared with, in an additive sense) the impacts on other sites. In addition, development on each site would be subject to uniform site development and construction standards that are designed to protect public safety. Therefore, cumulative geology and soils impacts would be ***less-than-significant***, and no mitigation measures are required.

Mitigation. No significant cumulative geology or soils impact has been identified; no mitigation is required.

Mitigation 10-1. If additional contaminants are encountered, the affected areas would be remediated to residential standards. The applicant shall comply with all applicable existing state- and county-mandated site assessment, remediation, removal, and disposal requirements for soil, surface water, and/or groundwater contamination. In particular, these include the requirements of Contra Costa County, the Regional Water Quality Control Board (RWQCB), and the California Department of Toxic Substances Control (DTSC). DTSC, as lead regulatory agency, would provide oversight of the clean-up.

~~Implementation of these measures would involve the following steps:~~

~~(a) *Soil Contamination.* In order to mitigate potential health hazards related to construction personnel or future occupant exposure to soil contamination, the applicant shall complete the following steps for each area proposed for disturbance as part of project-proposed construction activity on the site:~~

~~Step 1. Investigate the area to determine whether it has a record of hazardous material discharge into soils, and if so, characterize the area according to the nature and extent of soil contamination that is present before development activities proceed in that area.~~

~~Step 2. Based on the proposed activities, determine the need for further investigation and/or remediation of the soils conditions in the contaminated area. For example, if the area is slated for commercial land use, the majority of the area would be paved and there would be little or no contact with contaminated soil. Industrial clean-up levels would likely be applicable. If the slated development activity could involve human contact with soils, such as may be the case with residential use, then Step 3 should be completed. If no human contact is anticipated, then no further mitigation is necessary.~~

~~Step 3. If it is determined that extensive soil contact would accompany the intended use of the area, undertake a Phase II investigation, involving soil sampling at a minimum, at the expense of the property owner or responsible party. Should further investigation reveal high levels of hazardous materials in the area soils, mitigate health and safety risks according to City of Hercules, Contra Costa County Health Services Department, and Regional Water Quality Control Board (RWQCB) regulations. This would include site-specific health and safety plans prepared prior to undertaking any building or utility construction. Also, if buildings are situated over soils that are significantly contaminated, undertake measures to either remove the chemicals or prevent contaminants from entering and collecting within the building. If~~

(continued)

Mitigation 10-1 (continued):

~~remediation of contaminated soil is infeasible, a deed restriction would be necessary to limit site use and eliminate unacceptable risks to health or the environment.~~

~~(b) *Surface Water or Groundwater Contamination.* In order to reduce potential health hazards due to construction personnel or future occupant exposure to surface water or groundwater contamination, the applicant shall complete the following steps for each area proposed for disturbance as part of project-proposed construction activity on the site:~~

~~Step 1. Investigate the area to determine whether it has a record of hazardous material discharge into surface water or groundwater, and if so, characterize the area according to the nature and extent of contamination that is present before development activities proceed in that area.~~

~~Step 2. Install drainage improvements in order to prevent transport and spreading of hazardous materials that may spill or accumulate on-site.~~

~~Step 3. If investigations indicate evidence of chemical/environmental hazards in site surface water and/or groundwater, then mitigation measures acceptable to the RWQCB would be required to remediate the area prior to development activity.~~

~~Step 4. Inform construction personnel of the proximity to recognized contaminated sites and advise them of health and safety procedures to prevent exposure to hazardous chemicals in surface water/groundwater.~~

Compliance with these requirements would be expected to assure that this possible health and safety impact would be ***less-than-significant***.

Hazardous Materials Associated with Proposed Project Land Uses. The residential, retail, and office uses proposed by the project would not be expected to involve the routine transport, use, or disposal of hazardous materials, except for the use of common household products generally stored in small, sealed containers. Therefore, project residential, retail, and office uses would not constitute a significant hazard to the public or the environment.

The potential for the proposed flex-space on the ground floor of the project live-work units to create a hazard to the residents living above and near these uses if such businesses use hazardous materials would be mitigated to a less-than-significant level by required compliance with the provisions of the adopted Hercules General Plan, Waterfront District Master Plan (see especially section 3.0--form-based code), California Building Code, and California Fire Code.

Compliance with these established requirements would assure that this possible health and safety impact would be ***less-than-significant***.

Mitigation. No significant additional adverse impact has been identified; no additional mitigation is required.

Impact 10-2: Potential Asbestos, PCB, and/or Mercury Exposure. Renovation and adaptive reuse of the existing former Administration and Clubhouse buildings on the site, as proposed by the project, could involve removal or disturbance of asbestos-containing material (ACM), PCBs, and/or plumbing, which could expose construction workers and the general public to friable asbestos, PCBs, and/or mercury. This possibility represents a ***potentially significant impact*** (see criterion [b] in subsection 10.3.1, "Significance Criteria," above).

The 2008 hazardous materials screening reports noted that sampling was limited to representative locations in the Administration and Clubhouse buildings, that additional hazardous materials may be present within wall cavities, and that areas not sampled should be presumed to include hazardous materials similar to those sampled. The 2008 reports also recommend a more comprehensive survey prior to renovation activities on the two buildings.

Mitigation 10-2. Ensuring proper identification and removal of ACM, PCBs, and/or mercury requires the project applicant to complete the following steps:

- Step 1. Thoroughly survey the ~~project site and existing~~ structures for the presence of ACM, PCBs, and mercury. The survey shall be performed by a person who is properly certified by OSHA and has taken and passed an EPA-approved building inspector course. [This step has been partially completed.]
- Step 2. Prepare a written Asbestos Abatement Plan describing activities and procedures for removal, handling, and disposal of these building elements using the most appropriate procedures, work practices, and engineering controls.
- Step 3. Provide the asbestos survey findings, the written Asbestos Abatement Plan (if necessary), and notification of intent to the City of Hercules and Contra Costa County Health Services Department at least ten days prior to commencement of work.
- Step 4. Remove any mercury-containing electrical equipment/plumbing prior to building renovation, in accordance with adopted regulations.

Implementation of these requirements would be expected to reduce the potentially significant health and safety impacts associated with project-related disturbance and removal of asbestos, PCBs, and mercury to a ***less-than-significant level***.

Mitigation 11-2. Any project-related Refugio Creek dredging will require issuance of a Dredging/Dredge Material Reuse/Disposal Permit from the U.S. Army Corps of Engineers (Corps). The Corps permit process typically requires completion of a sampling analysis of proposed dredged materials. A Sampling and Analysis Plan (SAP) detailing sediment sampling and analysis is typically submitted to the San Francisco Bay Dredged Material Management Office (DMMO). If the results of the SAP indicate that water quality will not be impacted by dredging, a consolidated Dredging/Dredge Material Reuse/Disposal permit can be issued by the Corps. The permit would cover both Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act. If contaminated sediment is encountered, further sediment characterization and a sediment removal plan (including upland disposal or beneficial reuse) would be required by the Corps as a condition of permit issuance.

Project interim drainage plan compliance with Corps dredging permit requirements would reduce associated water quality impacts to a ***less-than-significant level***.

Impact 11-3: Ongoing Impacts on Water Quality. Ongoing activities associated with operation of the project could increase the level of contaminants in receiving waters. Sources of pollutants could include (a) runoff from new roadways, parking areas, and other paved areas; and (b) herbicides, pesticides, and fertilizers used in new domestic landscaping. These factors could combine to significantly degrade the quality of receiving waters in Refugio Creek and, ultimately, San Pablo Bay, representing a ***potentially significant impact*** (see criteria [a], [c], [e], and [f] in subsection 11.3.1, "Significance Criteria," above).

Increased uses of herbicides, pesticides, and fertilizers associated with new domestic landscaping could add to contamination of receiving waters. Urban debris and oil and grease that collect on new paved surfaces could be washed into drainages and further impair runoff water quality and, ultimately, water quality in downstream receiving waters.

Mitigation 11-3. Pursuant to the federal Clean Water Act, the quality of storm water runoff discharging into creeks and sloughs is governed by the National Pollutant Discharge Elimination System (NPDES). NPDES permit issuance requires the preparation of a Storm Water Pollution Prevention Plan (SWPPP). As a condition of project approval, the City shall ensure that the project applicant complies with applicable City storm water control plan and NPDES permit requirements (including applicable C.3 requirements). Implementation of this measure would reduce the impact to a ***less-than-significant level***.

See the discussion under *Impact 11-1* above.

Mitigation 11-5. If the Hercules Bayfront Project construction is ultimately proposed to commence prior to the adjacent ITC project, the following mitigation requirement will apply:

As a condition of tentative map or final development plan approval requirement for issuing a building permit for Blocks G, K, L, M, N, O, Q, and R, the applicant's civil engineer/ hydrologist shall demonstrate to City Engineer satisfaction, including final hydrologic monitoring, that the proposed interim Hercules Bayfront Project creek channel grading plan, with tie-in and without replacement of the existing downstream dog-leg and culverts, will adequately protect the structure and operation of the new Bayfront Bridge and proposed Transit Loop Bridge and Railroad Bridge against damage from the 100-year flood, and ensure that people and structures in surrounding existing neighborhoods (which cannot be raised) are protected from significant flood risk. Implementation of this requirement would reduce this impact to a ***less-than-significant level***.

Impacts on Groundwater Recharge. The construction of additional impervious surfaces on the project site could reduce the amount of groundwater recharge; however, as described in subsection 11.1.3(a) of this EIR chapter, no public water supply wells are located down-gradient of the project site. Therefore, the project's impact on groundwater recharge would therefore be considered ***less-than-significant***. (See chapter 9, Geology and Soils, for discussion of groundwater impacts related to slope stability.)

Mitigation. No significant groundwater recharge impact has been identified; no mitigation is required.

Cumulative Hydrology and Water Quality Impacts. In addition to the project, other development unrelated to the project would continue to occur elsewhere in the city, county, and subregion. Hydrology-related impacts from future development would include impacts associated with construction of on-site storm drain systems, site-specific flooding and groundwater conditions, and site-specific construction period and ongoing impacts on water quality. In some areas, the capacity of existing or proposed storm drain systems to handle cumulative flows may be a concern. Development on each site would be subject to uniform site development and construction standards that are designed to prevent flooding and protect water quality. The mitigation measures identified above would ensure that the project's contribution to cumulative hydrology and water quality impacts would be ***less-than-significant***.

Mitigation. No significant cumulative hydrology or water quality impact has been identified; no mitigation is required.

Table 12.1

**WATERFRONT DISTRICT MASTER PLAN BUILD-OUT ESTIMATE WITHOUT PROJECT;
 PROPOSED AMENDMENTS**

<u>Sub-District</u>	<u>Gross Acres</u>	<u>Residential Units (non-flex)</u>	<u>Office (non-flex) Sq. Ft.</u>	<u>Retail (non-flex) Sq. Ft.</u>	<u>Flex-Space Sq. Ft.</u>
Central Neighborhood	45	217 ¹	--	--	--
Refugio Neighborhood	10	78 ²	--	--	--
Historic Town Center and Transit Village	45	1,392 ³	81,000 ³	74,500 ³	134,000 ³
Hercules Point and Bay Parcels	67	--	--	--	--
TOTALS	167	1,687	81,000	74,500	134,000

SOURCE: Wagstaff/MIG

¹ From October 2004 WDMP, page 5.

² From October 2004 WDMP, page 8.

³ From July 2008 WDMP Initiative, page 10

- the Intermodal Transit Center (ITC) project that is the subject of a separate EIR/EIS that was released for public review and comment on September 8, 2010.¹

12.1.6 Regional Plans

(a) ABAG's San Francisco Bay Trail Plan. The San Francisco Bay Trail is a designated 400-plus-mile shared-use path system proposed by the Association of Bay Area Governments (ABAG). The ABAG Bay Trail Plan is intended to eventually provide for continuous travel around the Bay for walkers, bicyclists, and other outdoor enthusiasts. Existing and planned local segments of the Bay Trail include a segment along Railroad Avenue immediately southwest of the project site² and a planned one-mile segment (the so-called Bay Trail/Promenade) along the Hercules Bayfront Project and ITC project frontages adjacent and parallel to the UPRR tracks. This segment is proposed for construction as part of the ITC project to complete a gap in the Bay Trail from Pinole to Victoria by the Bay. The proposed Hercules Bayfront Project includes a connection to this planned Bay Trail/Promenade to provide the neighborhood and community with improved shoreline access. If the ITC project does not proceed, the Hercules Bayfront Project, as the first development at this location, would become

¹The Draft EIR/EIS for the ITC project is available on the City's website at www.ci.hercules.ca.us/index.aspx?page=604.

²Association of Bay Area Governments, "San Francisco Bay Trail" map, Carquinez Strait – Vallejo to Richmond section, http://baytrail.abag.ca.gov/maps/Carquinez_Strait.pdf, viewed January 8, 2010.

dredging, and shoreline development. The Bay Plan also identifies "Priority Use Areas," i.e., shoreline areas designated for uses that must be located on the waterfront, such as ports and waterfront parks.

12.3 IMPACTS AND MITIGATION MEASURES

12.3.1 Significance Criteria

Based on Appendix G of the CEQA Guidelines,¹ the proposed project would be considered to have a significant adverse land use impact if it would:

- (a) disrupt or divide the physical arrangement of the community;
- (b) be incompatible with existing land use in the vicinity;
- (c) conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect; or
- (d) conflict with any applicable habitat conservation plan or natural community conservation plan.

Regarding the project relationship to criterion (d), please refer to chapter 6 (Biological Resources) of this EIR.

12.3.2 Proposed Project Build-Out Characteristics

The proposed changes to the General Plan, Zoning and WDMP as set forth in the project applications ("proposed revisions") are described below.

Figure 3.6 in chapter 3 herein shows an illustrative site plan of the proposed project. Table 12.2 summarizes the maximum development program that would be permitted on the project site under the proposed revisions. The proposed revisions divide the project site into three development areas: (1) the Bowl area (also referred to as Crescent Heights), (2) the Bayfront Boulevard Mixed-Use area, and (3) the Village area. Each development area is comprised of blocks as identified on Figure 3.56. The proposed development program in relation to the areas and associated blocks is quantified in Table 12.2.

Comparison of Table 12.2 (Proposed Hercules Bayfront Project: Maximum Buildout Estimate) with Table 12.1 (Waterfront District Master Plan Build-Out Estimate Without Project) indicates that:

- the proposed project residential total of 1,392 units is consistent with the maximum estimated for the Historic Town Center and Transit Village sub-district (1,392 units);²

¹CEQA Guidelines, Appendix G, Items IX(a-c).

²Under the proposed project, the 134,000 square feet of flex-space could be developed as up to 134 residential units, for a potential maximum of 1,526 residential units.

Bayfront EIR to the ITC. Square footage has been assigned in the table to the Transit Annex/Cafe on the same block. The proposed ITC project is included in the anticipated cumulative effects (e.g., traffic) evaluated in this EIR.

⁶ Includes an option of either 125 residential (non-flex) units or a 125-room hotel (still counted as 125 residential units in the table) on Block D.

⁷ Blocks F and H are owned by others (i.e., not owned by the project applicant) ~~and have existing entitlements (October 12, 2004).~~ These two blocks have been listed here because they were included in the Estimated Build-Out in Section 1.5 of the WDMP table in the WDMP Initiative. ~~Their existing entitlements are listed in the table.~~

⁸ Total of 42.36 acres includes all development blocks (see Figure 3.6) and public roads within the project boundary.

-
- the proposed project office (non-flex) space total of 115,000 square feet is more than the maximum estimated for the Historic Town Center and Transit Village sub-district (81,000 square feet);
 - the proposed project retail (non-flex) space total of 90,000 square feet is more than the maximum estimated for the Historic Town Center and Transit Village sub-district (74,500 square feet); and
 - the proposed project flex-space total of 134,000 square feet is consistent with the maximum estimated for the Historic Town Center and Transit Village sub-district (134,000 square feet).¹

12.3.3 EIR-Assumed Build-Out Scenario

Due to the project-proposed flex space provisions and their intended opportunities for flexibility, the ultimate combination of residential/office/retail space that could potentially occur under the proposed project is unknown. To ensure worst-case conservative analysis of land-use-based environmental impacts consistent with CEQA, in some cases this EIR assumes that a maximum of 67,000 square feet of flex space would be assigned to retail uses (the maximum amount proposed to be permitted), with the remaining 67,000 square feet assigned to office uses; these assumptions represent the potential development scenario that would generate the most traffic and associated air quality, climate change, and noise impacts. In other cases where the worst-case analysis of potential environmental impacts should be based on population (e.g., police and fire protection, schools), this EIR assumes that all flex space would be developed as 134 multi-family residential units (the maximum number of units proposed to be permitted).

¹Under the proposed project, the 134,000 square feet of flex-space could be developed as up to 134 residential units, for a potential maximum of 1,526 residential units.

12.3.4 Impacts and Mitigation Measures

Land Use Compatibility Impacts. Development implemented in the Historic Town Center and Transit Village sub-districts by the proposed project would be guided by the land use controls and Form-Based Code provisions of the WDMP and proposed project revisions thereto. Rather than physically divide the community, the WDMP and proposed project revisions thereto have been designed to integrate the Hercules waterfront community by providing transit-oriented, mixed-use development connected internally and to the surrounding community with walkable streets, pedestrian and bicycle trails, plazas, open space, and other public amenities. These land use characteristics would represent **beneficial environmental effects**. The proposed project would not disrupt or divide the physical arrangement of the existing Hercules community and, as indicated in chapter 4 (Aesthetics) of this Draft EIR, would be compatible with existing land use in the vicinity (see criteria [a] and [b] under subsection 12.3.1, "Significance Criteria," above).

Mitigation: No significant adverse environmental impact has been identified; no mitigation is required.

Project Consistency with Hercules Land Use Element and Growth Management Element.

Project consistency with goals, objectives, policies and programs from the Hercules General Plan Land Use Element and Growth Management Element adopted for the purpose of avoiding or mitigating an environmental effect (CEQA Guidelines Appendix G, Environmental Checklist Form, item IX[b]) are identified, and project consistency with those provisions is considered, in Table 12.3. Project consistency with policies from the General Plan Circulation Element adopted for the purpose of avoiding or mitigating an environmental effect are considered in chapter 16, Transportation and Circulation, of this Draft EIR. As shown in Table 12.3, the project would not conflict with an applicable land use plan, policy, or regulation of the City of Hercules adopted for the purpose of avoiding or mitigating and environmental effect, except for Policies 1A and 5A, in which case the potential environmental impacts of the project-proposed amendments to the Hercules General Plan (including the WDMP) are evaluated in this EIR.

Mitigation. No additional impact has been identified; no additional mitigation is required.

Cumulative Land Use and Planning Effects. Table 12.4 lists the under construction, recently approved, and currently pending development projects in Hercules as of the release of this EIR's Notice of Preparation (November 2009), per CEQA Guidelines section 15130. The table indicates that a total of approximately 3,522,298 residential units, 838,500-704,500 square feet of flex-space floor area, 594,500-513,500 square feet of office floor area, and 655,600-613,600 square feet of retail floor area are under construction, have been recently approved, or are pending in the city. Additional, as yet unproposed, future cumulative development is also anticipated within the City boundaries under the provisions of the Hercules General Plan.

Table 12.4
 UNDER CONSTRUCTION, RECENTLY APPROVED, AND PENDING DEVELOPMENT
 PROJECTS IN HERCULES

<u>Project Name</u>	<u>Res'l Units</u>	<u>Flex-Space (s.f.)</u>	<u>Office (s.f.)</u>	<u>Retail (s.f.)</u>
New Town Center	1,306	0	191,000	406,000
Hill Town	640	0	0	5,000
Sycamore North	96	0	0	40,000
Sycamore Crossing	170	87,500	192,500	136,600
Historic Village (Masonic Building)	21	0	0	7,000
Civic Center	65	71,500	60,000	19,000
North Shore Business Park	0	480,500	70,000	0
Victoria Greens	0	65,000	0	0
Intermodal Transit Center	--	--	--	-- ⁽¹⁾
WETA Hercules Ferry Terminal	--	--	--	--
Totals	<u>3,522,298</u>	<u>838,500</u>	<u>704,500</u>	<u>594,500</u>
			<u>513,500</u>	<u>655,600</u>

SOURCE: City of Hercules, November 2009 (release of EIR Notice of Preparation).

⁽¹⁾ The retail space proposed by the Hercules Bayfront Project applicant on the ITC project site (up to 3,000 square feet) is evaluated in this Hercules Bayfront EIR.

Table 13.7
TYPICAL NOISE LEVEL RANGES AT 50 FEET, L_{eq} IN DBA AT CONSTRUCTION SITES

Phase	Domestic Housing		Public Works Roads and Highways, Sewers, and Trenches	
	I	II	I	II
Ground Clearing	83	83	84	84
Excavation	88	75	88	78
Foundations	81	81	88	88
Erection	81	65	79	78
Finishing	88	72	84	84

I - All pertinent equipment present at site.

II - Minimum required equipment present at site.

SOURCE: U.S. EPA, Legal Compilation on Noise, Vol. 1, p. 2-104, 1973.

Mitigation 13-1. Reduce project construction period noise impacts on nearby residences by incorporating conditions in project construction contract agreements that stipulate implementation of the following conventional construction period noise abatement measures to the satisfaction of the City:

- *Construction Plan.* Prepare a detailed construction plan identifying the schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with nearby noise-sensitive facilities so that construction activities and the event schedule can be scheduled to minimize noise disturbance.
- *Construction Scheduling.* Ensure that noise-generating construction activities are limited to between the hours of 7:300 AM to 5:00 PM, Monday through Friday, and 9:00 AM to 5:00 PM on weekends and holidays, and are approved by written request to the Department of Public Works (based on planned civic activity in the area).
- *Construction Equipment Mufflers and Maintenance.* Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- *Equipment Locations.* Locate stationary noise-generating equipment as far as possible from sensitive receptors when sensitive receptors adjoin or are near the construction site.

(continued)

Mitigation 13-1 (continued):

- *Construction Traffic.* Route all construction traffic to and from the construction sites via designated truck routes where possible. ~~Prohibit construction-related heavy truck traffic in residential areas.~~ All construction traffic routes shall be approved by the City.
- *Quiet Equipment Selection.* Use quiet construction equipment, particularly air compressors.
- *Temporary Barriers.* Construct solid plywood fences around construction areas to shield residences, operational businesses, or noise-sensitive land uses.
- *Temporary Noise Blankets.* Temporary noise control blanket barriers should be erected, if necessary, along building facades of construction areas. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling. (Noise control blanket barriers can be rented and quickly erected.)
- *Noise Disturbance Coordinator.* The City may choose to require project designation of a "Noise Disturbance Coordinator" who would be responsible for responding to any local complaints about construction noise. The Disturbance Coordinator would determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and institute reasonable measures to correct the problem. Conspicuously post a telephone number for the Disturbance Coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule. (The project sponsor should be responsible for designating a Noise Disturbance Coordinator, posting the phone number, and providing construction schedule notices. The Noise Disturbance Coordinator would work directly with an assigned City staff member.)

Implementation of these measures would reduce this intermittent project construction period noise impact, but--due to the extended construction period of several years--this impact is considered ***significant and unavoidable***.

Buses would access the proposed ITC from John Muir Parkway/Bayfront Boulevard. According to a study prepared for the ITC, there are a total of 14 local, express, regional, and transbay bus routes currently operated out of the existing Hercules Transit Center, and existing transit service would be re-routed to serve the ITC. This EIR analysis for the Hercules Bayfront project assumes an average headway of 20 minutes during the peak hour for existing bus routes. Based on this assumption, 42 buses could access the transit center during the peak hour. Average noise levels resulting from these buses are calculated to be 49 dBA L_{eq} at 175 feet and 44 dBA L_{eq} at 400 feet. Therefore, bus operations associated with the ITC project would not be expected to substantially increase hourly average noise levels or daily average noise levels over existing conditions.

Mitigation 13-2. For all proposed buildings where the exterior noise level at the facade exceeds 60 dBA L_{dn} , project-specific acoustical analyses ~~consistent with~~ shall be conducted and measures taken as necessary to meet the requirements of the State Building Code (SBC) ~~shall be conducted prior to individual building construction to confirm that individual building designs will reduce interior noise levels to 45 dBA L_{dn} or lower.~~ Building sound insulation requirements may include the provision of sound-rated windows and doors, and forced-air mechanical ventilation for residential units so that windows could be kept closed at the occupant's discretion to control noise. The specific determination of what treatments are necessary shall be conducted on a unit-by-unit basis. Results of the analysis, including the description of the necessary noise control treatments, shall be submitted to the City, along with the associated building plans, for review and approval prior to issuance of a building permit.

The final requirements for building noise controls would be determined by the City during the detailed design process, pursuant to SBC requirements. ~~The City shall retain~~ During the individual project design review process, a qualified Acoustical Engineer, ~~at project applicant expense, during the individual project design review process to~~ shall peer review and verify residential structure noise abatement specifications for all residential units proposed within 200 feet from the railroad tracks.

Implementation of these measures to the satisfaction of the City would reduce the potential impact on new residential uses to a ***less-than-significant level***.

For this EIR, preliminary assessments of building elements were made based strictly on approximated noise levels at building setbacks and typical generic wall/window area ratios. The project-specific analysis identified in this mitigation shall incorporate the effect of locomotive warning horns if information regarding requirements for signaling indicates warning horns will be frequent in the area. Preliminary detailed analyses conducted by the applicant's consultant (Salter) were reviewed. Their analysis indicates that high-performance sound-rated windows and doors with Sound Transmission Class (STC) ratings ranging from 40 to 60 STC would be required for bedrooms located within 100 feet of the nearest railway track centerline. At a distance of 200 feet, STC requirements would range from 35 to 55 STC. STC requirements in other rooms are 5 points lower, reflecting the lower standard for single-event

noise. In commercial buildings, STC ratings ranging from 30 to 50 STC would be required in order to mitigate hourly average noise levels to the City's goal of 45 dBA L_{eq} or less. Lower

STC ratings would be acceptable for shielded facades and those located at a greater distance from the tracks.

Impact 13-3: Potential Exposure of Project Outdoor Use Areas to Noise Levels Exceeding Standards. Outdoor areas near residential units are proposed where exterior noise levels would be up to 77 dBA L_{dn} when there is line-of-sight to the railroad (i.e., no barrier). This exceeds the outdoor noise exposure criterion of 70 dBA L_{dn} when railroad noise is the primary source; these areas may be considered “noise-sensitive” outdoor areas. This represents a ***potentially significant impact*** (see criteria [a], [c], and [d] and explanatory text in subsection 13.3.1, “Significance Criteria,” above).

Mitigation 13-3. The project design currently includes a retaining wall (as a shared facility with the ITC project); which would also act as a noise barrier, along the railroad right-of-way (based on an acoustic analysis that has been performed in accordance with Title 24). The retaining wall, in combination with building shielding, is anticipated to reduce noise in outdoor residential activity areas to below 70 dBA L_{dn} . The final design for the noise barrier (i.e., retaining walls or other noise barriers that might be equally effective) shall be reviewed during the subsequent acoustical analyses required for Title 24 compliance, and incorporated into the final acoustical report for the project design prior to issuance of building permits to reduce noise in outdoor residential activity areas to below 70 dBA L_{dn} . If the retaining wall is not built as part of the ITC project prior to development of Hercules Bayfront Project outdoor use areas, the Hercules Bayfront Project shall prepare, to City satisfaction, the acoustical analyses required for Title 24 compliance in order to identify location-specific measures that will reduce noise impacts on outdoor use areas to a less-than-significant level (i.e., below 70 dBA L_{dn}). The retaining wall, or any other noise barriers as deemed necessary, shall be constructed according to the noise-attenuation specifications identified in the acoustical analyses, subject to City review and approval. Implementation of these measures to the satisfaction of the City would reduce the potential impact to a ***less-than-significant level***.

environmental impact and one or more associated mitigations will be identified for incorporation into the project to reduce the impact and better implement the General Plan. Otherwise, the proposed project will be considered consistent with the policies listed below.

(b) City of Hercules Waterfront District Master Plan (WDMP). The Waterfront District Master Plan (WDMP) (including the Initiative) does not contain any policies or other provisions specifically relevant to fire protection/EMS.

15.3.3 Significance Criteria

Based on the CEQA Guidelines, the proposed project would result in a significant impact on the provision of fire protection/EMS if it would:¹

- (a) result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for fire protection or other emergency services;
- (b) result in possible interference with an emergency response plan or emergency evacuation plan;
- (c) result in inadequate emergency access; or
- (d) expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands. (There are no wildlands on or near the project site.)

15.3.4 Impacts and Mitigation Measures

Increase in Fire Protection/EMS Demands. Implementation of the proposed Hercules Bayfront Project would increase demand for RHFD services. The additional new residents and employees on-site would generate additional calls for fire protection/EMS assistance. The District estimates that the proposed project would result in approximately 647 calls for service (EMS, fires, hazardous conditions, "good intent" calls, and false calls) per year.²

In addition, all roads and fire hydrants/fire flow must by law conform to chapter 5 of the California Fire Code with Fire District amendments.

As described above in subsection 15.3.1 (Setting), funding for additional Fire District personnel would need to be addressed through the RHFD General Fund process, which is a District process outside the scope of CEQA. For the project's incremental contribution to the need for new fire protection/EMS facilities in Hercules, based on the mandatory Development Impact Fee (DIF) described above, the proposed project would contribute approximately \$1.0613 million

¹CEQA Guidelines, Appendix G, Items XIII(a), VII(g), XV(e), and VII(h).

²Biagi.

toward any future new fire protection/EMS facilities.¹ As a result, the project effect on fire protection/EMS demands does not represent a significant "environmental" impact under CEQA because the District's funding process is designed to address personnel needs and the City's DIF is formulated to address facility needs (e.g., equipment, potential future cumulative need for a new station). The project effect on fire protection/EMS demands would not meet the "criteria" suggested in Appendix G (Environmental Checklist Form), item XIII (Public Services), of the CEQA Guidelines--i.e., "result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services." Also see Significance Criteria (a) above. Therefore, the proposed project would have a **less-than-significant impact** on fire protection/EMS demands.

Mitigation. No significant fire protection/EMS demand-related project environmental impact has been identified; no mitigation is required under CEQA.

Fire Protection Emergency Response, Evacuation, and Access Impacts. As noted in subsection 15.3.1 (Setting) above, the RHFD has concluded that adequate emergency access to the project site would require an EVA off Linus Pauling Drive; the District states that the EVA needs to be 20 feet wide, able to support 68,000 pounds, be all-weather accessible, and gated for emergency vehicle use.² The proposed project would include such an EVA to meet at least the minimum requirements described by the RHFD. The City of Hercules is arranging for a Public Utility Easement (PUE) to run along the tangent of Linus Pauling Drive between project Blocks P and R, within which the EVA would be constructed in conformance with the District requirements. Alternatively, the City may elect to extend Linus Pauling Drive south of the North Channel to connect to John Muir Parkway.

Mandatory standard City and RHFD review of proposed emergency access provisions prior to project construction would ensure that all applicable City and RHFD road design and emergency access standards are met (e.g., turnaround radii, road widths). Therefore, the proposed project would have a **less-than-significant impact** on fire protection/EMS emergency response, evacuation, and access.

Mitigation. No significant project environmental impact on fire protection/EMS emergency response, evacuation, or access has been identified; no mitigation is required under CEQA.

Cumulative Demands for Fire Protection/EMS. Buildout of the proposed project, in combination with other anticipated cumulative development in Hercules (see EIR chapter 12, Land Use and Planning), would cumulatively increase the demand for fire protection/EMS,

¹The approximately \$1.0613 million total Development Impact Fee for fire protection/EMS facilities generated by the proposed project was calculated by using the potential combination of project land uses (residential, office, retail) that would yield the highest total fee (1,392 multi-family units, 249,000 square feet of office floor area [including 134,000 square feet of flex space], and 90,000 square feet of retail floor area).

²Biagi.

Also, EBMUD will not install pipeline in areas where groundwater contaminant concentrations exceed specified limits for discharge to sanitary sewer systems or sewage treatment plants. Applicants for EBMUD services requiring excavation in contaminated areas must submit copies of existing information regarding soil and groundwater quality within or adjacent to the project boundary. In addition, the project applicant must provide a legally sufficient, complete and specific remedial plan establishing the methodology, planning, and design of all necessary systems for the removal, treatment, and disposal of all identified contaminated soil and/or groundwater. EBMUD would install pipelines after the necessary remediation has been completed and documentation of the effectiveness of the remediation has been received and reviewed. If no soil or groundwater quality data exists, or if EBMUD deems the supplied information insufficient, EBMUD may require the applicant to perform sampling and analysis to characterize the soil being excavated and/or groundwater that may be encountered during excavation; similarly, EBMUD may perform such sampling and analysis itself at the applicant's expense.

It is reiterated that the Hercules Bayfront Project site is not known to contain any contaminated soil or groundwater (see chapter 10, Hazards and Hazardous Materials, of this EIR). However, EBMUD uses these standard regulations for worker safety in all new developments, in case any such hazardous condition arises or is identified during project construction.

The construction of project-related and cumulative local water delivery system modifications described above would be temporary and would occur within existing public rights of way (e.g., Bayfront Boulevard) or private property subject to a municipal easement. Associated construction period traffic interruption, noise, and air emissions (dust) typically associated with such infrastructure construction would be mitigated through standard City construction period mitigation procedures (e.g., see chapters 5 [Air Quality] and 13 [Noise] of this EIR). No significant environmental impact is anticipated with this construction activity. The potential environmental impacts associated with construction of the project-related and cumulative water delivery system modifications described in this EIR section would therefore be **less-than-significant** (see criterion [a] in subsection 15.5.3, "Significance Criteria," above).

Mitigation. No significant construction period environmental impact associated with project-related or cumulative water delivery system modifications has been identified; no mitigation beyond standard City construction period mitigation procedures is required under CEQA.

15.7 WASTEWATER

15.7.1 Setting

(a) Existing Wastewater Collection System. The City of Hercules provides wastewater collection and conveyance services to the entire city. Existing wastewater pipelines are located along the eastern edge of the project site. Since the project site is currently undeveloped, the site does not generate wastewater.

(b) Existing Wastewater Treatment Provider and Capacity. The project site is within the Pinole-Hercules Wastewater Treatment Plant (PHWTP) service boundary. The plant, located in the City of Pinole treats and disposes of wastewater for approximately 15,000 households in the cities of Pinole and Hercules. The treatment plant has a permitted dry weather capacity of 4.06

- (a) exceed the wastewater treatment requirements of the applicable Regional Water Quality Control Board;
- (b) require or result in the construction of wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects; or
- (c) result in a determination by the wastewater treatment provider that serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments.

15.7.4 Impacts and Mitigation Measures

Project and Cumulative Wastewater Collection and Treatment Impacts. The proposed project would generate additional wastewater. The City of Hercules Public Works Department has applied the following generation factors to the project components: 150 gallons per day (gpd) per multi-family residential unit; 40 gpd per 1,000 square feet of office floor area; 40 gpd per 1,000 square feet of flex-space; and 20 gpd per 1,000 square feet of retail floor area. Based on these factors, the proposed project would generate approximately 220,560 gpd of wastewater. The Public Works Department has concluded that both the local sewer system that would connect to the project site and the PHWTP-Pinole-Hercules Wastewater Treatment Plan have enough capacity to serve the project. However, the City is currently studying other options to accommodate future wastewater needs of additional development within Hercules. On August 9, 2011, the Hercules City Council unanimously adopted a resolution (a) affirming the City of Hercules's commitment to continue to treat the City's wastewater at the Pinole-Hercules Wastewater Treatment Plant and (b) confirming the City's intent to share in the cost of the plant expansion and upgrades with the City of Pinole, subject to further joint analysis and discussions of those improvements.

For the proposed project's incremental contribution to wastewater collection and treatment system demand, and based on the mandatory Development Impact Fees described above in subsection 15.7.1 (Setting), the proposed project would contribute approximately \$6.24 million toward any future wastewater collection and treatment facilities.¹

Because the project site is currently undeveloped, connections to the local sewer system would be required. The project applicant is currently working with City staff to design the necessary local wastewater collection facilities to accommodate the project, in accordance with standard City of Hercules requirements and engineering professional practice.

The construction of project-related wastewater collection system modifications would be temporary and would occur within existing public rights of way or private property subject to a municipal easement. Associated construction period traffic interruption, noise, and air emissions (dust) typically associated with such infrastructure construction would be mitigated through standard City construction period mitigation procedures (see chapters 5 [Air Quality]

¹The approximately \$6.24 million total Development Impact Fee for wastewater collection and treatment facilities generated by the proposed project was calculated by using the potential combination of project land uses (residential, office, retail) that would yield the highest total fee (1,526 multi-family units [including 134 units from flex-space], 115,000 square feet of office floor area, and 90,000 square feet of retail floor area).

and 13 [Noise] of this EIR). No significant environmental impact is anticipated with this construction activity. The potential environmental impacts associated with construction of necessary wastewater collection system modifications described in this EIR section would therefore be ***less-than-significant***.

16. TRANSPORTATION AND CIRCULATION

This chapter describes: (1) the existing and planned transportation and circulation system in the project vicinity, including roadway, bicycle, pedestrian, parking, and transit provisions; (2) the potential impacts of the project on those provisions; and (3) associated mitigation measures for identified significant impacts. The findings in this chapter are based on research, review of other relevant studies and independent analysis undertaken by Fehr & Peers, transportation consultants.

16.1 SETTING

16.1.1 Roadway System

(a) Key Roadway Links. Figure 16.1 illustrates the existing local and regional roadway system serving the project vicinity, which is comprised of freeways, arterials, collectors, and local streets. A brief description of these key roadway system components as of release of the NOP for this Draft EIR is provided below.

Interstate 80 (I-80) is an east-west freeway which runs generally north-south through Hercules, with three travel lanes plus one HOV lane in each direction south of the I-80/SR 4 interchange, and three mixed-flow travel lanes and no HOV lane north of the I-80/SR 4 interchange. Caltrans plans to begin began construction of HOV lanes north of the I-80/SR 4 interchange in 2010. I-80 currently carries an average daily traffic (ADT) volume of approximately 180,000 vehicles south of the I-80/SR 4 interchange and 137,000 vehicles north of the I-80/SR 4 interchange. These segments of the freeway currently have a posted speed limit of 65 miles per hour (mph).

State Route 4 (SR 4) is an east-west freeway generally with two travel lanes in each direction east of I-80. West of I-80, SR 4 terminates and becomes John Muir Parkway at San Pablo Avenue. SR 4 currently carries an ADT volume of approximately 40,000 vehicles and has a posted speed limit of 65 mph.

The **I-80/SR 4** interchange provides full access between I-80 and SR 4 except for the westbound I-80 to eastbound SR 4 and eastbound I-80 to westbound SR 4/John Muir Parkway connections. One-lane flyover connections are provided for transition between westbound SR 4 and westbound I-80 and between eastbound SR 4 and eastbound I-80.

The **I-80/SR 4 Connector/Willow Avenue** interchange is a component of the I-80/SR 4 interchange providing a hook ("loop") on- and off-ramp connection to Willow Avenue from the two-lane ramp connecting eastbound I-80 and eastbound SR 4. East of the Willow Avenue off-ramp, the two-lane connector ramp meets a one-lane section of eastbound SR 4 to form a 3-lane eastbound SR 4 segment. The Willow Avenue hook off-ramp diverges from the two-lane ramp to connect with Willow Avenue. A hook on-ramp allowing access from Willow Avenue to SR 4 eastbound meets Willow Avenue at the same all-way-stop-controlled intersection as the

Mitigation 16-2. The project sponsor shall be responsible for a fair share contribution toward the cost of construction of the following intersection mitigation measures (diagrams of these recommended intersection mitigation measures are shown on Figure 16.12):

- **Measure 16-2-1:** To mitigate the project impact on intersection #2, San Pablo Avenue/John Muir Parkway, signalize the intersection of San Pablo Avenue/Tsushima Street, allowing full access to Tsushima Street, and provide a 150-foot minimum eastbound left-turn storage pocket. This mitigation measure is currently planned by the City of Hercules, but it is not currently fully funded. This signalization measure and new eastbound left-turn will decrease volumes along San Pablo Avenue through downtown Hercules by providing an alternative route.

Implementation of this mitigation measure would result in LOS B operation at this intersection under the Cumulative-Plus-Project condition during both the AM and PM peak hours--i.e., would reduce this impact to a **less-than-significant** level. Implementation of this measure would also be necessary to mitigate other identified intersection impacts in the downtown core area (see measures 16-2-2, 16-2-3 and 16-2-4 below).

- **Measure 16-2-2:** To mitigate the project impact on intersection #4, San Pablo Avenue/Sycamore Avenue, implement Measure 16-2-1 plus the following additional measures:
 - (a) Widen Sycamore Avenue between Willow Avenue and San Pablo Avenue from a six-lane to a seven-lane cross-section, allowing a full block (Willow Avenue to San Pablo Avenue) of left-turn storage for vehicles turning from northbound Sycamore Avenue to westbound San Pablo Avenue. (This mitigation requirement is also identified in the recent City-certified New Town Center Project EIR.)

Implementation of this measure would result in acceptable LOS E operations during the AM peak hour, but the projected PM peak-hour delay would remain higher than under no-project conditions. No feasible additional mitigation has been identified for this project PM peak hour impact. Therefore, this impact would be considered **significant and unavoidable**.

- **Measure 16-2-3:** To mitigate the project impact on intersection #3, San Pablo Avenue/Old Transit Center Driveway, implement Measures 16-2-1 and 16-2-2, plus the following additional measures:

(continued)

Mitigation 16-2 (continued):

- (a) Add a second right-turn lane from northbound San Pablo Avenue to eastbound John Muir Parkway. The added second right-turn lane shall be extended south to the Old Transit Center Driveway intersection. (This mitigation requirement is also identified in the recent City-certified New Town Center Project EIR).
- (b) Widen eastbound John Muir Parkway to four lanes from San Pablo Avenue to the SR 4 and I-80 ramps. This widened segment of John Muir Parkway would allow the two northbound San Pablo Avenue right-turn lanes to have exclusive receiving lanes serving the I-80 Westbound On-Ramp. The widening would also require widening of the I-80 Westbound On-Ramp from one to two lanes. (This mitigation requirement is also identified in the recent City-certified New Town Center Project EIR).

Implementation of these measures would result in acceptable LOS E operations during the AM peak hour and a decrease in intersection delay to below no-project levels during the PM peak hour--i.e., would reduce this impact to a ***less-than-significant*** level.

- **Measure 16-2-4:** To mitigate the project impact on intersection #6, Willow Avenue/Sycamore Avenue, implement Measures 16-2-2, which would reduce intersection delay at this intersection to below no-project levels--i.e., would reduce this impact to a ***less-than-significant*** level.
- **Measure 16-2-5:** To mitigate the project impact on intersection #11, Sycamore Avenue/Tsushima Street, install a traffic signal at the intersection and construct a northbound right-turn lane to provide a northbound intersection approach with both a shared through/left-turn lane and a right-turn lane.

Implementation of this measure would reduce intersection delay to City-acceptable levels--i.e., would reduce this impact to a ***less-than-significant*** level.

22. APPENDICES

- 22.1 Notice of Preparation and Initial Study
- 22.2 Water Supply Assessment (WSA)
- 22.3 Supplemental Noise Information
- 22.4 CEQA Standards for EIR Adequacy
- 22.5 CEQA Definition of "Mitigation"
- 22.6 EIR Consultant Team

APPENDIX 22.1

~~NOTICE OF PREPARATION AND INITIAL STUDY~~