

**ORDINANCE NO. 503
ZONE DESIGNATION AMENDMENT #RZ 17-01 &
ZONING TEXT AMENDMENT #ZTA 17-01
SAFEWAY CENTER**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HERCULES APPROVING ZONING DESIGNATION AMENDMENT #RZ 17-01 TO REZONE THE 6.75-ACRE PROJECT SITE, KNOWN AS SAFEWAY CENTER LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF SYCAMORE AVENUE AND SAN PABLO AVENUE (EXISTING APN 404-040-040), FROM “NEW TOWN CENTER” (NTC) TO “GENERAL COMMERCIAL” (CG) AND APPROVING ZONING TEXT AMENDMENT #ZTA 17-01 TO AMEND SECTION 34.400.H OF THE ZONING ORDINANCE RELATED TO PYLON SIGNS.

WHEREAS, in accordance with Chapter 52 (Zoning Amendments) of the City of Hercules Zoning Ordinance, the City Council has received and considered an application from McNellis Partners (“Applicant”) for Zone Designation Amendment #RZ 17-01 for the Project known as Safeway Center, located at the northeast corner of the intersection of Sycamore Avenue and San Pablo Avenue; and

WHEREAS, the City Council has also received an application for Zoning Text Amendment #ZTA 17-01 that requests an amendment to Section 34.400.H, “Signs Subject to Review,” to allow the installation of new freestanding, freeway-oriented pylon signs up to 90-feet-tall in CG Districts adjacent to Highway 80; and

WHEREAS, the Project Site includes one Assessor parcel (APN 404-040-040) totaling approximately 6.75 acres (“Project Site”); and

WHEREAS, the Project Site in its current state generally is vacant/undeveloped, with the southern two-thirds primarily paved asphalt with vestiges (e.g., bus bays and striped parking spaces) of the former bus terminal and parking facility for the BART (Bay Rapid Transit) Park-and-Ride (PNR), plus a few remnants (e.g., monument signage and outdoor fireplace) from Market Hall, a former temporary “pop-up” commercial use of the site; and

WHEREAS, the proposed Safeway Center project is located within the Central Quarter of the Plan for Central Hercules; and

WHEREAS, in addition to the applications referenced above, the following applications related to the Safeway Center project also have been filed concurrently and collectively define the “Project”:

- Initial Study/Addendum (#IS 17-01) to the Hercules New Town Center (HNTC) Environmental Impact Report (State Clearinghouse No. 2007062002, certified 2009) (the HNTC EIR), pursuant to the California Environmental Quality Act (CEQA);

- General Plan Amendment (#GPA 17-01) to change the land use designation of the Project site from New Town Center (NTC) to General Commercial (GC); and amend the Circulation Element text of the General Plan, Section B.2.b, “Land Use Assumptions,” to “require that all future project proposals in the New Town Center Designated Areas be evaluated under CEQA criteria for potential transportation and traffic impacts to help ensure that overall trip generation and traffic operations remain below the levels that were evaluated in the HNTC EIR for the Hercules New Town Center Project and any Addendums thereto.”
- Initial and Final Planned Development Plan (#FPDP 17-01) for approximately 65,600 square feet of commercial space within three structures, including a 57,100-square-foot supermarket, a 6,000-square-foot commercial pad with potential for two (2) drive-thru uses anticipated to be a bank and a coffee shop, and a 2,500-square foot convenience store/fueling kiosk with 20 fuel pump stations and an 85-ft-tall conceptual freestanding pylon sign, with common areas for parking, landscaping, and pedestrian access on an approximately 6.75-acre project site;
- Design Review Permit (#DRP 17-02), as required by Chapter 42 of the Zoning Ordinance including (but not limited to) the review of property lines, existing onsite features and offsite features within 50 feet of the boundaries, orientation & location of buildings, site layout, proposed roads/walks/paths, existing and proposed grading onsite and at adjoining sites in comparison with existing grade, pedestrian/vehicular/service ingress & egress and driveway widths, open space use & landscape areas, lighting for wall surfaces/walkways/parking/cast by building interior, all identification and directional exterior signage, setbacks, street dedications and improvements, location/height/design of all fences or walls, parking layout, architectural relationship with the site and other buildings, quality of design based on proposed exterior building elevations/colors/materials, perspective drawings to show relationship after development of the building to off-site features, refuse design/pickup area, exterior mechanical equipment screening, loading docks, downspouts, and awnings;
- Conditional Use Permit (#CUP 17-01) required for each of the following uses under the General Commercial (CG) zoning: auto fuel and mini-mart; shopping center; grocery and/or liquor sales; restaurant with liquor service (to be determined); drive-through sales and services; retail stores more than 2,000 square feet; and outdoor retail sales (if needed);
- Minor Exception (#ME 17-01) to allow grocery store building height 10% in excess of the 35-ft height limit in General Commercial zones and to allow a 10% reduction in the 262 minimum required parking spaces [based on 4 parking spaces per 1,000 square feet of gross building area in shopping centers less than 100,000 square feet total (per Table 32-1 of the Zoning Ordinance)] to 236 parking spaces; and

WHEREAS, the Project Site was within the development area evaluated in the HNTC EIR , which evaluated, among other things, the potential environmental effects on the subject parcel and six other parcels; and;

WHEREAS, in accordance with CEQA requirements, an Initial Study/Addendum, dated August 23, 2017, was prepared for the proposed Project and posted to the City's website and distributed to the Planning Commission, City Council, and interested parties on August 24, 2017; and

WHEREAS, on September 5, 2017, the Planning Commission held a duly noticed public hearing on the Project, at which time all interested parties had the opportunity to be heard and the Commission reviewed staff reports from July 17, 2017, August 7, and September 5, 2017 (which are incorporated herein by this reference) that described and analyzed the entirety of the Project in addition to reviewing the Initial Study/Addendum and the HNTC EIR; and

WHEREAS, on September 5, 2017, the Planning Commission adopted Resolution No. 17-03 recommending that the City Council approve the Initial Study/Addendum #IS 17-01, dated August 23 2017, based on the determination, pursuant to Sections 15063, 15162, 15164, and 15168 of the CEQA Guidelines, that the proposed Safeway Center project is within the scope of the development program evaluated previously and that none of the conditions described in Section 15162 calling for further environmental review have occurred; and

WHEREAS, on September 5, 2017, the Planning Commission adopted Resolution No. 17-04 recommending that the City Council approve General Plan Amendment #GPA 17-01 changing the land use designation of the Project Site from New Town Center (NTC) to General Commercial (GC) and amending the Circulation Element text of the General Plan regarding future transportation and traffic studies within the New Town Center Project area; and

WHEREAS, on September 5, 2017, the Planning Commission adopted Resolution No. 17-05 recommending that the City Council approve Zone Designation Amendment #RZ 17-01, Zoning Text Amendment #ZTA 17-01, and the related applications listed above, including Initial Study/Addendum #IS 17-01, and recommended that the City Council approve the Zoning-related modifications and other related Project applications; and

WHEREAS, the City Council has received oral and written comments from the general public, property owners, and interested parties, and has thoroughly considered all above referenced information, reports, recommendations, and testimony before taking any action on the Project; and

WHEREAS, on September 26, 2017, the City Council held a duly noticed public hearing on the Project, at which time all interested parties had the opportunity to be heard and the City Council reviewed the staff report for September 26, 2017 (which is incorporated herein by this reference) that described and analyzed the entirety of the Project in addition to reviewing the Initial Study/Addendum and the HNTC EIR; and

WHEREAS, on September 26, 2017, the City Council adopted Resolution No. 17-069 approving Initial Study/Addendum #IS 17-01 for the Safeway Project; reconfirming and readopting the applicable mitigation measures listed therein; and reconfirming and readopting the Statement of Overriding Considerations for the Hercules New Town Center Project as amended; and

WHEREAS, on September 26, 2017, the City Council held a duly noticed public hearing on the Project and adopted Resolution No. 17-070 approving General Plan Amendment #GPA 17-01 for the Safeway Project; and

WHEREAS, approval of the Project would amend corresponding maps, text, tables, and figures related to the Zone Amendment #RZ 17-01 and Zoning Text Amendment #ZA 17-01; and

WHEREAS, the City Council heard and used its independent judgment and considered all such information, reports, recommendations, and testimony described herein; and.

WHEREAS, the City Council finds, after due study, deliberation, and public hearing for the proposed Zone Designation Amendment #RZ 17-01 and Zoning Text Amendment #ZTA 17-01, that:

- a. Zone Designation Amendment #RZ 17-01 and Zoning Text Amendment #ZTA 17-01 are consistent with the General Commercial (CG) General Plan designation contingent upon its adoption.
- b. Potential uses for the Project Site allowed by the proposed Zone Designation Amendment #RZ 17-01 and Zoning Text Amendment #ZTA 17-01 are compatible with the objectives, policies, general land uses, and programs specified and allowed by the General Commercial (GC) General Plan land use designation.
- c. Zone Designation Amendment #RZ 17-01 and Zoning Text Amendment #ZTA 17-01, as proposed, would not be detrimental to the health, safety, welfare, and public interest of the City.
- d. Zone Designation Amendment #RZ 17-01 and Zoning Text Amendment #ZTA 17-01, as proposed, are internally consistent and do not conflict with the purposes, regulations, and required findings of the Zoning Ordinance.
- e. All elements, requirements, and conditions of Zone Designation Amendment #RZ 17-01 and Zoning Text Amendment #ZTA 17-01 are a reasonable and appropriate 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 near this development in particular; and

WHEREAS, attached hereto and by this reference incorporated herein sets forth Findings with Facts for this project.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HERCULES DOES
HEREBY ORDAIN AS FOLLOWS:**

SECTION 1.

- A.** Zone Designation Amendment #RZ 17-01 is hereby approved thereby changing the zoning district for the 6.75-acre project site known as Safeway Center from “New Town Center” (NTC) to “General Commercial” (CG), per Exhibit A attached hereto, based on the Findings with Facts, contingent upon the adoption of the aforementioned CEQA Initial Study/Addendum #IS 17-01, and General Plan Amendment #GPA 17-01, and related project applications, including Design Review Permit #DRP 17-02, and Initial/Final Planned Development Plan #FPDP 17-01, Conditional Use Permit #CUP 17-01, and Minor Exception #ME 17-01; and
- B.** Zone Text Amendment #ZTA 17-01 is approved to amend Section 34.400.H of the Zoning Ordinance, per Exhibit B attached hereto, to allow the installation of new freestanding, freeway-oriented pylon signs up to 90-feet-tall in CG Districts adjacent to Highway 80.

SECTION 2. SEVERABILITY.

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such holding shall not affect the validity of the remaining portions of this Ordinance. The Council hereby declares that it would have adopted the Ordinance, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be deleted.

SECTION 3. 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 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 regular meeting of the Hercules City Council on the 26th day of September, 2017, and was passed and adopted at a regular meeting of the Hercules City Council on the _____ day of _____, 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Myrna L. de Vera, Mayor

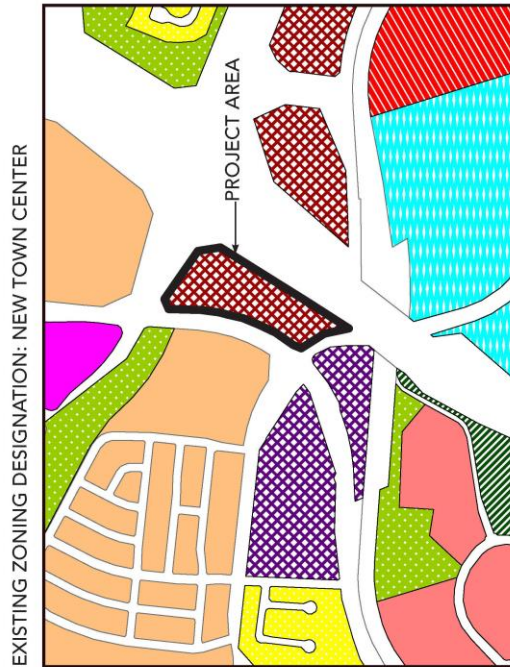
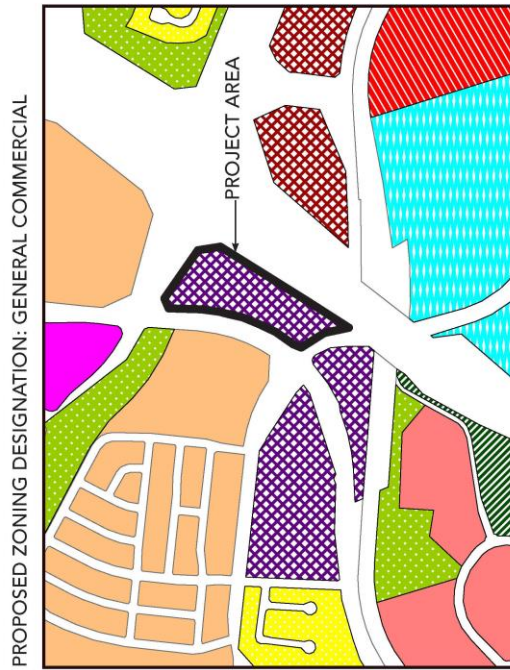
Lori Martin, Administrative Services Director &
City Clerk

Exhibit A – Zone Designation Amendment Map (#RZ 17-01)

Exhibit B – Zoning Text Amendment for Pylon Signs (#ZTA 17-01)

Exhibit C – Findings with Facts

Exhibit A **Safeway Center: Zoning Designation Amendment Map (#RZ 17-01)**



LEGEND: **ZONING DESIGNATION**

	Franklin Canyon Area
	Public Open Space
	Public Park
	Planned Commercial Residential
	Single Family Estate
	Residential Multi Family Low Density
	Community Commercial
	New Pacific Properties Specific Plan
	General Commercial
	Planned Office Research and Development
	Residential Single Family Low Density
	Waterfront Commercial
	Historic Town Center
	Public City
	New Town Center
	Residential Multi Family Medium Density
	Hercules Industrial
	Hercules Public School

ZONING DIAGRAM 09-01-2017

Exhibit B
Zone Text Amendment for Pylon Signs (#ZTA 17-01)

34.400 SIGNS SUBJECT TO REVIEW

The following signs, as defined, require review by the Community Development Director in accordance with the provisions of this chapter. Signs associated with projects subject to design review permits shall be reviewed as part of that process; however, such signs also require a sign permit from the Community Development Director. The Community Development Director may not waive any provisions of this *chapter*. Signs proposed for properties within the Central Hercules Plan shall be subject to the provisions of the Central Hercules Plan Regulating Code, as well as the provisions of this chapter.

- A. Permits for signs subject to review under Section 34.301 and 34.302 shall be acted upon within thirty (30) days of the submission of a complete Sign Permit application. Applications for sign permits must contain a scale drawing indicating the dimensions, materials, coloring, graphic content, lighting source, mounting hardware and site location. In addition, such application shall include photographs of signs found on properties located on each side of the structure.
- B. The Community Development Director may approve, deny or approve with conditions the any permit application for signs under Sections 34.301 and 34.302 of this chapter.
- C. All reviewing authorities shall review all signs and their locations within a site and placement on a structure in accordance with Sections 34.302 of this chapter.
- D. No sign shall exceed 100 square feet in sign area, except for wall signs on structures greater than 30,000 square feet in floor area. Structures greater than 30,000 square feet in floor area may not exceed 250 square feet in sign area.
- E. Awning Signs. An awning sign is a covering which is (or appears to be) made of cloth or canvas that is either permanently attached to a building or can be raised or retracted or fixed to a position against the building when not in use. Awnings on structures in the Central Hercules Plan shall be reviewed in accordance with all provisions of the Central Hercules Plan Regulating Code. The sign face of an awning sign may not exceed 25% of the area of the plane of the awning on which the sign face appears. No material or signage may hang from an awning.
- F. Marquee Signs. A marquee is a sign used for the advertisement of a movie or theatrical event. Marquee signs are permitted for theaters only and must be wall signs, subject to the requirements for wall signs.
- G. Monument Sign. A monument sign is mounted directly on the ground. The size of the face of a monument sign shall not exceed 32 square feet. The maximum height of the sign shall not exceed 6 feet. Only one monument sign per six-hundred feet of lot frontage is permitted.

H. Freestanding Pylon Sign. A freestanding pylon sign is a sign ~~in which is~~ attached to columns erected directly into the ground. Only one freestanding pylon sign per one-thousand feet of lot frontage is permitted. The height of a pylon sign is measured from the top of the sign to the ground.

1. New freestanding pylon signs are prohibited to be constructed in the City of Hercules ~~unless previously approved through a development agreement (The effective date passage of this ordinance by City Council)~~ except where all of the following conditions are met:
 - a. The property on which the pylon sign is to be constructed must be zoned as General Commercial (CG).
 - b. The pylon sign must be constructed on-site and within 100 feet of the Interstate 80 right-of-way or easement.
 - c. The pylon sign must be approved as part of a Master Sign Program ~~Planned Development Plan~~ and shall be subject to environmental review under the California Environmental Quality Act.
- ~~2. A legally installed freestanding pylon sign may continue to be used and ordinary maintenance and repairs may be made to the legally conforming sign provided the structure is not moved, enlarged, or structurally altered. Existing freestanding pylon signs will not be permitted to be enlarged, expanded or allowed any additional sign panels or tenants to be constructed within their existing sign area. Existing sign panels on legally constructed and permitted freestanding pylon signs are permitted to be replaced when new businesses replace existing businesses shown on current signage panels provided the Planning Commission determines that the new business is a major tenant.~~
2. ~~If a freestanding pylon sign is proposed to be constructed,~~ The pylon sign must be for on-site commercial developments intended to serve a market area that extends beyond the City limits of Hercules (as determined by the Planning Commission) ~~freestanding pylon signs may be permitted to be constructed provided, that all of the following conditions are met:~~
 - a. The sign shall be supported by a minimum of two enclosed supports, located at or near the exterior edge of the sign face, or ~~the sign shall be~~ constructed as a monolith (with no open area between the message area and the ground upon which the sign is located). Signs supported by a single pole, ~~column, or pylon~~ shall not be permitted.
 - b. At signs which contain open area below the message area (i.e., between the supports), the height of the open area shall be at least equal to the height of the message area.
 - c. ~~The width of the sign, measured across the maximum width of the sign structure, shall be no less than 25% of the maximum height of the sign structure.~~
 - d. The colors and/or materials of the sign and the supporting structure shall be compatible with the exterior of the shopping center or buildings for which the sign provides identification. The design of the freestanding sign should reflect the architectural design of the buildings within the shopping center.
 - e. The sign may identify the shopping center or businesses (where a single business is not part of a larger center or development) and the name of the shopping center or business shall be prominently displayed in the sign

message area. Individual tenants/owners may be identified on the sign providing the name of the center shall be clearly legible to the “target” audience, as determined by the Planning Commission. The freestanding pylon sign shall be limited to a maximum of three (3) ~~major~~ on-site tenants ~~as determined by the Planning Commission.~~

- f. Where the center/business adjoins a public street, the sign and the supporting structure shall be located no less than a distance equal to the maximum sign height from the nearest edge of the public street sidewalk (or curb, if there is no sidewalk), and the sign and supporting structure shall be located no closer than 10 feet from any other property line at the perimeter of the center/business site. This distance shall be measured from the closest point on the property line to the portion of the sign or sign structure that is closest to the property line.
- g. The maximum height of the sign shall not exceed ~~35~~ 90 feet.
- h. ~~Only one freestanding sign shall be allowed at any shopping center.~~ Notwithstanding Section 34.400.N, pylon signs may include a digital display, so long as such digital display occupies no more than twenty five (25) square feet on each sign face.
- i. ~~Substantial landscaping shall be installed at the base of the sign to reduce the apparent sign height. In particular, the full grown height of the planting adjoining the sign shall be about one third (1/3) of the sign height. The minimum required landscape area shall be equal to the square footage of all visible sides of the sign faces including and counting the sign panels, and the outside edges of the borders around the sign panels. Both sides of the sign faces shall be used to calculate the square footage of the sign.~~ As of the effective date of this ordinance, a legally installed freestanding pylon sign may continue to be used and ordinary maintenance and repairs may be made to the legally conforming sign provided the structure is not moved, enlarged, or structurally altered. Existing freestanding pylon signs will not be permitted to be enlarged, expanded, or allowed any additional sign panels to be constructed within their existing sign area. Existing sign panels on legally-constructed and permitted freestanding pylon signs are permitted to be replaced when new businesses replace one or more of the existing on-site businesses shown on existing sign panels.

Exhibit C Findings with Facts

Safeway Center Zone Amendment (#RZ 17-01) and Zoning Text Amendment (#ZTA 17-01)

Section 52.400 of the City of Hercules Zoning Ordinance requires all of the following findings to be made for granting an amendment to the Zoning Map or Zoning Ordinance:

FINDING NO 1: The proposed amendment is consistent with the General Plan.

FACT: The proposed General Commercial (CG) zoning classification would be consistent with the applicable General Plan Land Use designation as the applicant proposes to amend the current Land Use designation of the project site from “New Town Center” (NTC) to “General Commercial” (GC). The proposed Zoning Classification and Land Use designation would be consistent as both allow for the development of various types of commercial uses provided that applicable regulations are satisfied and certain performance standards are met. The GC land use designation of the General Plan and CG zoning allow for a wide variety of commercial uses within a floor-to-area ratio (FAR) of 0.20 to 1.00. The Safeway Center commercial development, as currently designed and proposed, will be developed at an FAR of approximately 24% and thus will be consistent with the General Commercial FAR requirements.

The proposed Zone Designation Amendment #RZ 17-01 to change the zoning designation from New Town Center (NTC) to General Commercial (CG) is consistent with the General Plan and includes a Planned Development Plan as required by Chapter 8.200 of the Hercules Zoning Ordinance.

In addition, the Zoning Text Amendment #ZTA 17-01 would also be consistent with the General Plan as it will assist in promoting an attractively designed and economically feasible development, as outlined in Objective 9 of the Hercules Land Use Element.

FINDING NO 2: The proposed RZ 17-01 and ZTA 17-01 would not be detrimental to the health, safety, welfare, and public interest of the City.

FACT: Staff has determined that development of the Project will result in a public benefit, including the provision of a commercial shopping center which will provide additional commercial services to the community of Hercules, including a Safeway supermarket, and will be located within close proximity to existing single- and multi-family residential developments to the west and southwest of the project site and located within close proximity to I-80 and Highway 4.

In addition, the Project will contribute to the City's General Plan policies, goals, and vision in terms of increasing the City's sales and property tax revenues.

Public improvements to current circulation infrastructure (including bus stop facility and multi-use path for bicyclists and pedestrians) along San Pablo and Sycamore Avenues will also occur as part of the Project and will overall increase pedestrian accessibility to the site by providing alternative forms of transportation. The proposed commercial buildings will be developed to current building safety and fire codes, which promote development concepts of the Hercules General Plan.

In addition, the proposed Zoning Text Amendment (ZTA 17-01) to amend Section 34.400.H, 'Signs Subject to Review,' would not impact or be detrimental to the health, safety, welfare, or public interest. The Sign Amendment would impose strict limitations on the number, size, and location of freeway-oriented signage in order to minimize their visual impact. Potentially allowable pylon signs would not impact or impair views or line-of-sight for vehicles traveling near the potential sites for which the regulation would be applicable. Moreover, any pylon sign would be subject to review and approval of a Master Sign Program application that provides the City discretion to require additional restrictions on the location, design, and other aspects necessary to minimize impacts on the public health, safety, or welfare.

FINDING NO. 3: The proposed RZ 17-01 and ZTA 17-01 are internally consistent and do not conflict with the purposes, regulations, and required findings of the Zoning Ordinance.

FACT: The proposed Zone Designation Amendment #RZ 17-01 is consistent with the proposed General Plan Amendment #GPA 17-01 and would allow for the development of the 6.75-acre Safeway Center commercial development, which would consist of a 57,100-square-foot Safeway supermarket, a 6,000-square-foot commercial pad with potential for two (2) drive-through based uses anticipated to be a bank and a coffee shop, and a 2,500-square-foot convenience store and fueling kiosk with common areas intended for parking, landscaping, and pedestrian access.

The proposed Zone Designation Amendment #RZ 17-01, in addition to the proposed Zoning Text Amendment #ZTA 17-01, would be internally consistent and would not conflict with the purposes, regulations, and required findings of the Zoning Ordinance for the General Commercial (CG) zoning district in that approvals are being considered under the Planned Development Plan. The accompanying Planned Development Plan, pursuant to Chapter 48 of the Hercules Zoning Ordinance, would establish the Development Regulations applicable to the proposed Project.