

RESOLUTION NO. 18-034

A Resolution of the City Council of the City of Hercules Modifying Planning Commission Resolution #18-05 adopted May 7, 2018 which approved Ledcor Properties, Inc. "Blocks Q&R" of the Bayfront Waterfront District Master Plan Area for Design Review Permit #DRP 17-06 to construct 232 apartment type residential units and approximately 12, 000 gross square feet of lobbies and amenity space, with 311 onsite parking stalls on two levels, on a 2.2 acre site subject to the Conditions of Approval and attached drawings and Exhibits A-D contained therein

WHEREAS, Design Review Permit #DRP 17-06 proposes to construct 232 apartment type residential units and approximately 12, 000 gross square feet of lobbies and amenity space, with 311 onsite parking stalls on two levels, on a 2.2 acre site; and

WHEREAS, the Planning Commission of the City of Hercules held public hearings to consider the applications, staff reports, public testimony, and all submittals provided at their February 20, April 16, and May 7, 2018 meetings; and

WHEREAS, the Planning Commission of the City of Hercules approved Resolution #18-05 on May 7, 2018 approving the application with conditions of approval with the attached drawings and Exhibits A-D stated therein; and

WHEREAS, staff posted Planning Commission's Notice of Decision before 5:00pm on Tuesday May 8, 2018 at the standard agenda posting locations (following normal practice to address section 50.400-Hearing and Appeals and section 44.400 Notice of Decision of the Hercules Zoning Code); and

WHEREAS, at the May 8, 2017 City Council meeting, a majority of the Council Members requested to review the Planning Commission's approval of the project pursuant to the procedure provided for in Section 44.500 of the City of Hercules Zoning Ordinance; and

WHEREAS, in response to the Council's decision to call up for review the May 7, 2017 decision of the Planning Commission, staff scheduled an appeal public hearing before the City Council for the June 12, 2018, Regular Meeting of the Council to consider Reversing, Affirming, or Modifying the Planning Commission's approval; and

WHEREAS, Based on Section 40.700 of the Zoning Ordinance, mailed appeal public hearing notices were sent to all property owners within 300' and published in the local newspaper at least 10 days in advance of the City Council hearing on the proposed project; and

WHEREAS, staff reviewed three (3) items that seemed to be in question regarding the approval and recommend Affirming Conditions 11.g and 29.a and Modifying Condition 22 to clarify trash collection for construction debris; and

WHEREAS, staff recommend Affirming that the project, in accordance with the California Environmental Quality Act (CEQA), is within the scope of the development program evaluated in the EIR, and staff's analysis and findings which were contained in the attached Exhibit C of Planning Commission Resolution #18-05; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hercules, does hereby:

- 1) Affirm Planning Commission Resolution #18-05 Condition of Approval # 11.g
- 2) Affirm Planning Commission Resolution #18-05 condition # 29.a
- 3) Modify Planning Commission Resolution #18-05 condition # 22 to read as follows
 22. **"Refuse/Trash Collection and Construction Debris:** A refuse collection plan shall be formulated, working with the refuse collection provider, Republic Services, to provide for efficient and effective trash/refuse collection system. The refuse collection plan shall be subject to Planning Director review and approval. Republic Services (a.k.a. Richmond Sanitary Service) is the exclusive franchised solid waste hauler for the City of Hercules. Republic's exclusive collection rights include collection of all solid waste in the City, including construction and demolition (C&D) waste from construction and demolition projects in the City. Removal of construction and demolition (C&D) waste from the construction of Blocks Q&R must be arranged with Republic Services prior to commencement of construction, or in another manner consistent with the Franchise Agreement or State Law.
- 4) Affirm the remainder of Planning Commission's Resolution #18-05 with Exhibits A-D as contained therein.
- 5) Affirm that the project, in accordance with the California Environmental Quality Act (CEQA), is within the scope of the development program evaluated in the EIR, and staff's analysis and findings which were contained in the attached Exhibit C of Planning Commission Resolution #18-05.

PASSED AND ADOPTED by the City Council of the City of Hercules on this twelfth day of June 2018, by the following vote:

AYES: Council Members: G. Boulanger, M. de Vera, R. Esquivias, Vice Mayor Romero, Mayor Kelley

NOES: None

ABSENT: None



Lori Martin, MMC
Administrative Services Director / City Clerk


Chris Kelley, Mayor

**REVISED RESOLUTION #18-05
FOR MAY 7, 2018 PLANNING COMMISSION**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERCULES APPROVING DESIGN REVIEW PERMIT #DRP 17-06 FOR THE "HERCULES BLOCKS Q&R PROJECT" LOCATED WITHIN PARCELS 29 AND 30 OF THE BAYFRONT WATERFRONT DISTRICT MASTER PLAN AREA, WITHIN A PORTION OF APN 404-730-005-0 WHICH IS BOUNDED ON THE WEST BY JOHN MUIR PARKWAY AND ON THE SOUTH BY THE NORTH CHANNEL (NEAR TIOGA LOOP) WEST OF LINUS PAULING DRIVE AND SOUTH OF BAYFRONT BOULEVARD. THE PROJECT CONSISTS OF 232 RESIDENTIAL UNITS IN A SINGLE, FOUR STORY BUILDING, WITH A SITE AREA OF 2.2 NET ACRES FOR A NET PROJECT DENSITY OF 105 UNITS PER NET ACRE. THE PROJECT INCLUDES 12,000 SQUARE FEET OF AMENITY SPACE, ALONG WITH TWO LANDSCAPED COURTYARDS, AND A TOTAL OF 311 STRUCTURED PARKING SPACES LOCATED WITHIN TWO SEPARATE LEVEL PARKING GARAGES

WHEREAS, in 2000 the City adopted the "Waterfront District Master Plan" (WDMP). In 2008 the "Waterfront Now Initiative" was presented to the City Council, and the Council adopted the language of the ballot initiative with an additional "Section 4" being added to the original WDMP (often called the Bayfront Waterfront Plan, or the Initiative Plan or in this approval the HWDMP) without Alteration via Initiative Ordinance 440 on July 22, 2008; and

WHEREAS, the Hercules Bayfront Draft and Final EIR documents (collectively, the "EIR") were certified by the City Council through Resolution No. 11-140 on December 13, 2011. The EIR evaluated development of the WDMP area in accordance with a development proposal known as the Bayfront Project. The Bayfront Project divided the WDMP area into three Sub-Areas, referred to as The Bowl (containing Blocks A, B, and C), Bayfront Boulevard (containing Blocks D-J), and The Village (containing Blocks K-R), which together allow for a total of 1,392 residential units, 115,000 square feet of non-flex office space, 90,000 square feet of non-flex retail space, and 134,000 square feet of flex space; and

WHEREAS, further amendments to the Initiative, General Plan Amendment, updates to exhibits, and refinements to the HWDMP document were adopted through Council Ordinance 464 on January 10, 2012 to conform the HWDMP to the EIR documents; and

WHEREAS, On March 13, 2012 the City Council approved a Vesting Tentative Map, a Vesting Development Agreement, and an Implementing Development Agreement (which was recorded June 15, 2012) covering the entire Bayfront-Waterfront Area and establishing various rights and obligations between the owner and the City regarding development of the area; and

WHEREAS, the last minor amendment to the HWDMP was initiated by the City and approved by the owner by a Council Action taken on May 10, 2016 through Ordinance 494 to include the already developed Railroad Avenue Live-Work block for the sole purpose of using the T5-MST land use table to simplify the implementation of use permits; and

WHEREAS, Exhibit K of the Implementing Development Agreement outlines a Streamlined Design Review and Building Permit Process available to the project to be processed within certain time frames so long as the specific site proposal is consistent with the larger Bayfront Project Approvals, does not require a General Plan, Zoning Ordinance, or HWDMP amendment, is in conformity with the existing environmental documents, and a Design Review process is carried out in line with Chapter 42 of the City Zoning Ordinance; and

WHEREAS, Exhibit A to this resolution contains Exhibit L from the Implementing Development Agreement which contains a complete list of Conditions of Approval that are applicable to the larger Bayfront Project that the developer is responsible for, with each condition applicable to this Blocks "Q" and "R" project identified with an asterisk; and

WHEREAS, Exhibit G of the Implementing Development Agreement (which is not contained herein) shows the City Public Improvements required to be carried out by the City as part of the larger Bayfront Project, with many of the public improvements already completed by the City; and

WHEREAS, on November 2, 2017 an application for Design Review approval was submitted to the City by Ledcor (Applicant) for the proposed project to be constructed on Blocks "Q" and "R", consisting of 232 residential apartment units, along with 12,000 square feet of amenity space and 312 off street structured parking spaces on 2.2 acres of land; and

WHEREAS, the proposed project is located within the Transit Village (aka "The Village") Planning Subarea of the larger Bayfront Hercules Waterfront District Master Plan (HWDMP) which consists of 8 city blocks (Blocks K, L, M, N, O, P, Q & R) that are currently designated for the development of up to 751 residential (non-flex) units, 5,000 square feet of non-flex office space, 13,000 square feet of non-flex retail space, and 84,000 square feet of flex space in order to create a high density transit oriented development; and

WHEREAS, the Planning Commission held an initial public hearing to consider the proposed project on Blocks "Q" and "R" on February 20, 2018, and after considering input from City staff, the Applicant, and the public, the Planning Commission provided direction to the Applicant on design and other aspects of the Project, and continued consideration of the Project to the March 19, 2018 Planning Commission hearing; and

WHEREAS, the Applicant, in response to the direction provided by the Planning Commission at the February 20, 2018 Planning Commission meeting, submitted revised plans to the City for Blocks "Q" and "R" on March 8, 2018 (dated 3/6/2018) and forwarded to the Commission and made available to the public March 9, 2018; and

WHEREAS, the regular Planning Commission meeting March 19, 2018 was cancelled and not convened as originally scheduled due to the need for the City to comply with specific Brown Act noticing requirements; and

WHEREAS, due to the cancellation of the March 19, 2018 Planning Commission meeting, public notice for the proposed project was provided for the April 16, 2018 Planning Commission meeting as required by State law; and,

WHEREAS, at the April 16, 2018 Planning Commission meeting, the Commission reviewed the revised drawings and evaluated their conformance to the various City codes, and considered the certified EIR and the required findings of the Design Review process; and

WHEREAS, the April 16, 2018 Planning Commission meeting was continued by vote of the Commission, with concurrence from City staff and the Applicant, to the meeting of May 7, 2018; and

WHEREAS, at the May 7, 2018 Planning Commission meeting, the Commission performed a further review of the revised drawings and evaluated their conformance with various City codes, and considered the certified EIR and the required findings of the Design Review process; and

WHEREAS, in accordance with the California Environmental Quality Act (CEQA), the City staff reviewed the EIR to determine whether the development proposal for Blocks Q and R is within the scope of the development program evaluated in the EIR, and staff's analysis and findings are contained in the attached Exhibit C; and

WHEREAS, the Planning Commission in reviewing this material finds that the proposed project will not result in any new, significant impacts that were not examined in the 2011 Certified EIR, and that none of the circumstances that would require preparation of an addendum or a subsequent or supplemental EIR under CEQA exists; and

WHEREAS, the Planning Commission Staff Reports of February 20, 2018, of March 19, 2018, April 16, 2018, and May 7, 2018, incorporated herein by reference, describe and analyze the subject application for Design Review Permit #DRP 17-06, and the Planning Commission concurs with staff's analysis and findings regarding how the project meets the five required Design Review Findings that are contained in the attached Exhibit D; and

WHEREAS, the Planning Commission has received oral and written comments from the general public, property owners, and interested parties, and has thoroughly considered all above referenced reports, recommendations, and testimony, and used its independent judgment before making a decision or taking any action on the Project.

NOW, THEREFORE BE IT RESOLVED THAT THE CITY OF HERCULES PLANNING COMMISSION FINDS:

- The foregoing recitals are true and correct and made a part of this resolution by this reference.
- After due study, deliberation, and public hearing, the Planning Commission makes specific findings and determinations below which are supported by facts stated in the Planning Commission staff reports of February 20, 2018, March 19, 2018, April 16, 2018, and May 7, 2018 which are incorporated herein by reference.
- The proposal would not be detrimental to the health, safety, welfare, and public interest of the City so long as the applicant adheres to the below Special Conditions of Approval and those contained herein as Exhibit A from previous Project Approvals and the attached approved drawings
- The proposal is internally consistent and does not conflict with the purposes, regulations, and required findings of the Zoning Ordinance so long as the applicant adheres to the below Special Conditions of Approval and those contained herein as Exhibit A from previous Project Approvals and the attached approved drawings in Exhibit B.
- The Planning Commission finds, all elements, requirements, and below conditions for the 232 unit apartment project proposed on Blocks "Q" and "R" within the Bayfront "Village" Subarea, 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 or visit or live in this development based on the Findings with Facts attached in Exhibit D supporting the Five Design Review related Findings as well as information contained in the February 20, 2018, March 19, 2018, April 16, 2018, and May 7, 2018 Planning Commission staff reports.
- General underground utility considerations, including the location, type, and size are not included in this approval. Review of exact locations, type, and size will be performed by Engineering as part of the final project design.
- Applicant agrees with the necessity of, and accepts all elements, requirements, and below conditions for the 232 unit apartment project on Blocks "Q" and "R" as reasonable and appropriate to preserve, protect, provide for, and foster the health, safety, and welfare of the citizenry in general and the persons who work or visit or live in this development in

particular, based on the Findings with Facts attached in Exhibit D supporting the five Design Review related Findings as well as information contained in the February 20, 2018 March 19, 2018, April 16, 2018, and May 7, 2018 Planning Commission staff reports.

BE IT FURTHER RESOLVED THAT THE PLANNING COMMISSION MAKES THE FOLLOWING FINDINGS REGARDING THE PROPOSED DESIGN REVIEW PERMIT #DRP 17-06 FOR BLOCKS "Q" AND "R" IN ACCORDANCE WITH CHAPTER 42 OF THE ZONING ORDINANCE SO LONG AS THE CONDITIONS OF APPROVAL AND THE DETAILS IN THE APPROVED DRAWINGS CONTAINED WITHIN THIS RESOLUTION ARE CARRIED OUT:

- The approval of the design review plan is in compliance with all provisions of Chapter 42, Design Review section of the City of Hercules Zoning Ordinance, as well as other pertinent provisions of the Zoning Ordinance and applicable zoning and land use regulations, including, but not limited to, the Hercules General Plan as amended and any specific plan (such as the Hercules Waterfront District Master Plan – HWDMP).
- The approval of the design review plan is in the best interest of the public health, safety, and general welfare.
- General site considerations, including site layout, open space and topography, orientation and location of buildings, vehicular access, circulation and parking, setbacks, heights, walls, fences, public safety and similar elements have been designed to provide a desirable environment for the development.
- General architectural considerations, including the character, scale and quality of design, the architectural relationship with the site and other buildings, building materials, colors, screening of exterior appurtenances, exterior lighting and signing, and similar elements have been incorporated in order to ensure the compatibility of this development with its design concept and the character of adjacent buildings.
- General preliminary landscape considerations, including the location, type, size, color, texture and coverage of plant materials at the time of planting and after a five (5) year growth period, provision for irrigation, maintenance and protection of landscaped areas and similar elements have been considered to ensure visual relief, to complement buildings and structures, and to provide an attractive environment for the enjoyment of the public.

BE IT FURTHER RESOLVED THAT THE PLANNING COMMISSION APPROVES DESIGN REVIEW PERMIT #DRP 17-06 FOR THE PROJECT SITE KNOWN AS BLOCKS "Q" AND "R" FOR THE PROPOSED 232 UNIT APARTMENT PROJECT SUBJECT TO THE FOLLOWING PROJECT SPECIFIC CONDITIONS OF APPROVAL CONTAINED BELOW PLUS THOSE CONDITIONS RESTATED FROM THE IMPLEMENTING DEVELOPMENT AGREEMENT EXHIBIT L, ATTACHED HEREIN LABELED EXHIBIT A, IN CONFORMITY WITH THE DRAWINGS CONTAINED IN EXHIBIT B (DATED MARCH 6, 2018- with revisions through 4/30/2018 for Planning Commission May 7, 2018 Meeting), AS DISCUSSED BY STAFF AND APPROVED BY THE PLANNING COMMISSION.

LEGEND:

DEPARTMENT with primary responsibility for implementing the listed conditions of approval:

(B) = Building; (CA) = City Attorney; (F) = Fire District; (PD) = Police Dept.; (PL) = Planning; (PW) = Public Works, (MMRP) = Mitigation Monitoring Report Program from 2011 certified EIR

The conditions include a heading in "bold, underlined font" in order to ease locating a specific condition. It should be noted that in a number of instances there is duplication in wording between conditions that address similar subject matter. In such an instance, a number reference is provided to the condition containing similar wording.

1. **Minor Modifications:** The project being built will substantially be in compliance with the attached plans (dated March 6, 2018- with revisions through 4/30/2018 for Planning Commission May 7, 2018 Meeting) for the "232 Unit Apartment Project on Blocks "Q" and "R" as submitted for the April 16, 2018 Planning Commission" with any changes approved by the Planning Commission, unless otherwise amended by action of the City Council. Minor modifications to the project may be requested by the Applicant/Owner and approved administratively by the City, in the reasonable discretion of the Planning Director. The decision on amendments must be based on the standards that applied to the original project approval, and a minor change can only be approved or conditionally approved if the Planning Director determines that the minor change is consistent with the spirit and intent of the original project approval and does not substantially change the effects of the approval on surrounding property. Minor modifications shall only be approved consistent with the provisions of the City of Hercules Zoning Ordinance, Chapter 46, "Minor Modifications.". (PL)(B)
2. **Approval Period.** The approvals referred herein are each valid for two (2) years so long as site grading has commenced by that time. However, if site grading has not commenced by that time, these approvals shall be null and void. The approval period may be extended for one (1) additional year at the discretion of the Planning Commission by submitting a written request and paying the applicable fee for extension to the Planning Department prior to the expiration date, so long as it can be determined that the applicant has diligently pursued development of the proposed project. (PL)
3. **Indemnity Requirement:** Failure by the Applicant/Grantee to object to any of the terms, conditions, requirements and obligations set forth in this Design Review Permit prior to the expiration of the appeal period (which is 10 business days of the mailing or posting of the approving resolution) shall constitute acceptance of all of the conditions and obligations imposed by the City on this permit. The Applicant/Grantee by said acceptance waives any challenges as to the validity of these conditions. Applicant/Grantee agrees to indemnify and defend the City, its agents, officers and employees, at Applicant/Grantee's own expense, against and from any claim, action or proceeding brought by any third party arising from or relating to the City's processing of Applicant/Grantee's development applications, the City's issuance of any of the approvals described in these conditions, and the Applicant/Grantee's implementation of and operations under the Design Review Permit, including but not limited to any claim, action or proceeding brought to attack, set aside, void or annul any of the City approvals described in these conditions, and any claim, action or proceeding brought against the City arising from or relating to Applicant/Grantee's development and operation of the project that is the subject of such City approvals. City shall promptly notify Applicant/Grantee of any such claim, action or proceeding of which City receives notice, and City will fully cooperate with Applicant/Grantee in the defense thereof. Applicant/Grantee's obligations under this condition shall include the obligation to reimburse the City for any court costs, reasonable attorney's fees and damage awards which the City may be required to pay as a result of any such action. City may, in its sole discretion, participate in the defense of any such claim, action or proceeding and may elect to be represented by counsel of the City's choosing at Applicant/Grantees' expense, and such participation shall not relieve the Applicant/Grantee of any of the obligations of this condition. This condition shall apply as written unless the Applicant's/Grantee's development proposal for Block's Q & R is determined to be consistent with and to conform to the Hercules Waterfront District Master Plan such that the indemnity requirement contemplated hereby is specifically controlled by the Implementing Development Agreement.
4. **Master Sign Program:** Prior to ordering or constructing any permanent signage, the property owner shall submit and receive Planning Director approval for an Administrative Design Review permit for signage.

5. **Bio Rad Hillslope Easement:** Developer is responsible for negotiating with all grading easement beneficiaries to ensure that they have access to maintenance slopes (if needed) in accordance with previously recorded documents prior to the recordation of a Final Map or issuance of building permits. The developer will provide evidence satisfactory to the City that the hillslope easements (which are delineated on page C-101 of the attached Blocks Q-R plans) do not encumber any development areas within the project site.
6. **Linus Pauling Abandonment.** Applicant shall use best efforts as reasonably determined by the City to procure and provide appropriate maps and legal descriptions in coordination with the City and pay all costs to process and secure abandonment of Linus Pauling Drive where the alignment is not needed after reconfiguration, to be implemented before issuance of certificates of occupancy issuance.
7. **Connection of EVA to Linus Pauling Drive:** In accordance with the Overall Bayfront Conditions #1 and #11, the Developer shall use best efforts to the reasonable satisfaction of the City Engineer to secure the necessary easements from the property owner to the north of the site (Bio Rad) in order to allow emergency vehicle access from the modified terminus of Linus Pauling Drive to the Project's north property line, thereby linking a 75,000 lb. capacity EVA, as required by the Fire District, to the Loop Road (as generally shown on pages C-200 and C-201 to be refined with construction drawings to meet City Engineer and Fire District standards). The Developer shall pay for the full cost constructing this "off site" portion of the EVA, as well as the cost of reconfiguring Linus Pauling Drive, demolishing portions of the street, and potential modifications to grades in coordination and to the specifications required by the City Engineer. A 20' "EVA easement" between the project and Linus Pauling shall be recorded prior to Certificate of Occupancy. If Developer is unsuccessful in obtaining the easement in the location shown, then the developer shall construct the connection to the proposed EVA from the terminus of Linus Pauling Drive, subject to inspection and approval by the City, which construction shall be completed prior to issuance of a Certificate of Occupancy for the Project.
8. **Architecture Related:**
 - a. **Materials:** Actual building material samples showing material and finish of key elements on the building shall be reviewed and approved by the Planning Director prior to building permit issuance. These shall include at a minimum: cement board siding, trim, cornice elements, wooden balcony elements, and cement plaster finish both at the Victorian 2 building walls and the ground floor base.
9. **Bicycle Parking** – City zoning code requires a minimum of bicycle parking of 10% of the residential unit count, however, for Blocks "Q" and "R" Applicant agrees to provide a minimum of 46 bicycle parking spaces shall be provided for the project (20% of the residential unit count), with ground level bike racks to accommodate 24 bikes which are accessible to the general public, and 22 lockable storage spaces within the parking structure and/or building that are accessible to residents. The specific type and location of ground level and parking structure/building level bike parking shall be subject to the review and approval of the Planning Director, with the exact location and specific type of bicycle parking depicted on drawings included with the Building Permit submittal.
10. **Window and Door Issues** - The detail for window recessing and window trim work shall be shown in the construction drawings for the Goldrush and the hexagon portion of the Victorian 3 style building, and shall be subject to Planning Director review and approval to ensure adequate window recesses and details are incorporated.

11. **Resident, Visitor Parking, and Locations and Operation of Vehicular Gates:**

The HWDMP Code requires 127 parking spaces for this project, which 311 structured parking spaces are being provided in parking structures "A" and "B" plus 10 spaces along the EVA/private street.

- a. **Public/Visitor & Guest Parking; Floor P-Parking, Structure "A"- 215 spaces in total:** The location of the vehicle gate(s) controlling access to the larger, lower parking structure accessed from the "Loop Road" (referred to in the drawings on page A-06 as Floor P – Parking and herein as Parking Structure "A") shall be located within the parking structure in such a manner so as to create a separate parking area containing a minimum of 16 spaces designated as "Public/Visitor Parking" "that shall be accessible from 6am to 10 pm to the general public. Additionally, 10 parking spaces are provided in the EVA/private street that will be made available to the general public as "Public/Visitor Parking". These spaces are to account for lost on-street parking caused by the proposed layout of Blocks Q & R.

All spaces beyond the gated area shall be available to "residents" and their "guests" as allowed under the "Residential parking requirements" section of the HWDMP.

- b. **Resident/Guest Parking Structure "B"- 96 parking spaces in total:** There is no requirement to reserve public/visitor parking within the smaller parking structure (referred to in the drawings on page A-07 as Floor 1 – Residential Parking herein as Parking Structure "B"). The exact placement of the gate allowing vehicular access to and from Parking Structure B shall be determined by the City so as to minimize queuing and public safety concerns.
- c. **Pedestrian Safety Applicable to Parking Structures A and B:** Prior to occupancy, appropriate automatic warning devices, such as flashing lights installed on the pavement and at eye level, or alternate means as determined by the City shall be installed at the vehicular entry/exit point for both parking structures A and B, to make pedestrians aware of the presence of vehicles entering/exiting the site. In addition, to the extent feasible, buildings located at the entry/exit points shall be designed to enhance site distance between vehicles entering/exiting the parking structures and pedestrians crossing those entry/exit points.
- d. **Resident/Guest Parking Allocation:** As required by the Waterfront Master Plan, a specific parking space(s) may not be allocated to a specific residential unit or resident. Instead, tenants will be issued a parking pass that will allow them to park in spaces not designated for public/visitor parking in Parking Structure "A" and anywhere in Parking Structure "B".
- e. **On Street Parking:** The duration of parking allowed on any street parking spaces located on John Muir Parkway, the "Loop Road", and the 10 spaces within the EVA/private road leading from the Loop Road to the Bio Rad property shall be determined by the City, with all related signage, striping, and potentially parking meters funded by the applicant.

- f. **Public Parking District:** Applicant shall work collaboratively with the City toward the formation of a Public Parking District that complies with all relevant provisions of the IDA. That process shall commence with the City's commissioning of a study as envisioned in Exhibit H of the IDA (Parking Study). The City shall prepare a Parking Study to consider shared parking strategies and opportunities, with particular focus on utilizing a portion of the spaces in planned public and private parking structures and lots for shared parking, proximity to the ITC, and the types of private developments that will participate in shared parking (e.g., single family attached, vs. multi-family residential, vs. commercial/retail), in determining which portions of the overall development are most appropriate for shared parking. The City shall consult in good faith with the Applicant in the preparation of the Parking Study, provided that the City's obligation to consult with the Applicant shall not diminish or impair City's or Applicant's rights under the IDA. Applicant shall record an instrument against Blocks Q and R that requires that those properties participate in the Public Parking District when it is later-formed. The Applicant understands and agrees that, with regard to the formation of a Public Parking District, the City retains its discretion to impose the same or a different condition, both retroactively with respect to Blocks Q & R and in connection with the approval of future phases of the Applicant's development, in the event that the parties have not reached an agreement on the formation of a Public Parking District, so long as such discretion is exercised in a manner consistent with the IDA, the HWDMP and all other applicable laws and regulations.
 - g. **Electric Vehicle Parking:** The number of EV parking spaces in the garages shall be as required by 2016 CALGreen Code, currently required to be a minimum of 3% of the parking spaces required within both parking Structures A and B. Parking spaces with EV plugs to the extent practical should be located away from high traffic areas, with the exact location and distribution of such spaces subject to the discretion of the Planning Director. EV parking spaces shall be shown on drawings included with the Building Permit submittal.
- 12. **Location/Screening of Plumbing Vents:** Plumbing vents will exit the roof in zones relating to the plumbing stacks and plumbing walls, that clearances to all mechanical equipment and openings will be maintained, and that all plumbing vents will be screened by the building parapets to the extent possible and subject to review and approval of Planning Director.
- 13. **Storm Water Basin "Fair Share":** Applicant has paid their fair-share contribution for the regional stormwater treatment facilities as part of the recently formed Community Facility District installed during the "Path To Transit" project, City Project Number 63001D which serves multiple private parcels including the Hercules Waterfront District Transit Village area, in conformance with the Implementing Development Agreement and Vesting Tentative Map. Furthermore:
 - a. Only untreated stormwater runoff shall be conveyed into the shared stormwater treatment basin and said flow shall not exceed the Developer's allotted portion of the basin.
 - b. On-site stormwater which has been treated in accordance with the Contra Costa Clean Water Program may be discharged into a City storm drain pipe if there is adequate capacity or water bodies if permits are obtained from the regulatory agencies and the design is approved by the City.

14. **Easement for Storm Drainage Maintenance.** Applicant shall provide an easement for City maintenance of storm drainage facilities, where applicable and as determined by the City, before building permit issuance.
15. **Utility Pipe Sizes.** Utility pipe sizes to be shown and signed off by City Public Works Director as adequate before building permit issuance.
16. **Sewer Cleanout.** A sewer cleanout shall be added in the Public Right of Way at the entrance to the private driveway between Blocks R and P.
17. **Street Repair:** Should the developer cut into the newly constructed City streets, the Developer shall restore such streets to their condition prior to developers work and shall slurry seal and stripe (with thermoplastic) the adjacent streets in coordination with the City Engineer and Public Works when the project is completed.
18. **Required Public Improvements:** The Developer is required to fund and construct all public improvements as depicted on the project plans, including the Loop Road (i.e. Street A) and any changes and/or repairs needed to the John Muir Parkway frontage in accordance with City of Hercules Design Standards and subject to the approval of the City Engineer.
19. **Security Plan:** Security plans shall be prepared for the project that depict, among other things, the location, type, and orientation of security cameras to be located on the property, subject to City review and approval. Special attention shall be provided where the 20' wide EVA/pedestrian access borders the Bio Rad property line and the storm drain channel. The security plan shall be reviewed and approved by City staff coordinating with the Police Department.
20. **Pedestrian Access:** An accessible pedestrian route shall be provided between each primary building entrance and the public sidewalk, and between each primary building entrance and the disabled parking stalls designated to serve that building. The accessible route and all ramps shall comply with all current applicable ADA access requirements and City Standards. (PW)
21. **Pedestrian bulbouts:** Pedestrian bulbouts shall be removed and replaced on Loop Road at John Muir Parkway to the extent allowed by Engineering in consultation with the Fire Department.
22. **Refuse/Trash Collection:** Refuse collection plan shall be formulated, working with the refuse collection provider, Republic Services, to provide for efficient and effective trash/refuse collection system. The refuse collection plan shall be subject to Planning Director review and approval.
23. **Graffiti Prevention and Control:** The Applicant/Developer shall maintain the site free of graffiti. Graffiti applied to any surface of the subject property shall be removed within forty-eight (48) hours of the Applicant/Developer being notified by the City. The City may remove the graffiti if the Applicant/Developer fails to remove the graffiti within forty-eight (48); the Applicant/Developer shall reimburse the City for the graffiti-removal work. (PL)
24. **Participation In Street Lighting/Landscape District:** Developer shall either continue participation in the existing Lighting and Landscaping Assessment District No. 83-2 for the "Developed Property" rate or form another financing district acceptable to the City to finance

the operation, maintenance, servicing and capital replacement costs associated with the landscaping and lighting in public right of way.

25. **Good Faith Coordination to Plan for Funding of City Infrastructure:** The parties shall in good faith coordinate with one another in an effort to plan for additional funds for development of City Infrastructure through the following non-exhaustive list of potential funding mechanisms:
- a) Use of financing provided by the California Infrastructure and Economic Development Bank ("CIEDB"), to the extent that any or all of the proposed infrastructure and parking costs are eligible and the City can qualify for such financing.
 - b) Use of Industrial Development Bond ("IDB") financing through the CIEDB, to the extent that any or all of the proposed infrastructure and parking costs are eligible and the City can qualify for such financing.
 - c) Pledge of Transient Occupancy Tax should the development include hotels.
 - d) Possible Creation of Community Service Districts if needed to meet operating costs.
 - e) Possible creation of Community Facilities District.
 - f) Formation of an Infrastructure Financing District, if that becomes feasible and, for some reason, tax increment is no longer available to the Agency.
 - g) Such other new modes of financing which fits the needs of the Project which may emerge over the financing life of the Project.
26. **On Site Maintenance:** The property owner or Homeowners Association (if and when formed), shall be responsible for the operation, maintenance, servicing and capital replacement of all areas not operated and/or maintained by individual property owners. This includes all parking (but does not include those in public streets), landscaping, open space, streetlights, alleys, pedestrian paseos, and non-public areas held in common by the association, required for property maintenance. The property owner or association shall be responsible for enforcement of CC&Rs related to property maintenance.
27. **Move-in Plan.** A Move-in Plan shall be formulated and approved by the City to provide for efficient move-ins for residents that will not unduly block traffic on the Loop Road or John Muir Parkway and subject to Planning Director and City Engineer review and approval.
28. **Landscape on Podiums.** Over the parking garage, enough space and depth, as determined by the City, should be provided in landscape planters to allow the growth and maintenance of healthy plants and trees.
29. **Fire District Requirements:** Applicant/Developer shall conform to the applicable requirements of the Hercules-Rodeo Fire District as a result of the initial review and three meetings with the Design Team and in accordance with the provisions of the CA Fire Code (CFC), Building Code (CBC), local ordinances and adopted standards; and as provided in the letter dated February 14, 2018 (which was based on the 1/23/2018 drawing set) which is summarized as follows:
- a. Fire Department access roads shall be provided to within 150 feet path-of-travel distance of all portions of first floor exterior walls of all structures and hazardous materials use or storage areas. Access roads shall be designed to current Fire Department standards: 20 feet wide minimum for structures two-stories or less in height, and 26 feet wide minimum (with Aerial Apparatus Access compliance) for structures more than 30 feet in height. All access roads shall support the imposed load of fire apparatus weighing at least 75,000 lbs. Turning radius 25 feet inside and 45 feet outside. Dead-end private access roads

more than 150 feet in length shall have an apparatus turn-around per current Fire Department standards. CFC 503.

- b. The issues below require resolution during the Building Permit review:

Apparatus Access issues: Sheet A-04.1 illustrates a 16' gate at the EVA connection to John Muir Parkway - the turning maneuver shown on Sheet C-500 illustrates the turning maneuver running over the gate/fence because the gate opening is too narrow; the turning maneuver from SB Loop Road to EB EVA access needs evaluation to demonstrate the location of curb cuts permits this maneuver.

Personnel Access issues: catenary lights and cables remain on L3.03 over the East Podium and will likely interfere with placing and raising a ground ladder to rescue windows; seat walls and planting areas in the Podiums will likely make footing a ground ladder difficult - one option would be to identify locations and provide ladder access pads below rescue windows; Gold Rush 2 on A-16 and Victorian Style on A-17 shows a balcony creating a covered walkway - further review is needed to determine how a ground ladder will reach a rescue window on Floor 2, 3 or 4 with this projection that appears to prevent the ladder from reaching the windowsill.

- c. A Fire Flow Analysis including proposed building areas, type of construction, and calculated available fire flow at the proposed fire hydrants shall be provided to the Fire Department for review and approval concurrent with submittal of Grading plans. Minimum adjusted (50% sprinkler credit) Fire Flow for this commercial project is estimated at 4,000 gallons per minute with 20 residual psi in the water main. Applicant shall contact East Bay Municipal Utilities District to have a flow test performed for the nearest existing hydrant to be used for the hydraulic design prior to submitting the Fire Flow Analysis. The project does not incorporate "fire walls" without openings therefore the calculation floor area is uncontained and this creates the large fire flow. CFC 507.
- d. Hydrant spacing for this commercial project shall comply with current Fire District standards of CA Fire Code Chapter 9 and Appendix C and three (3) copies of the final site plan shall be submitted for approval of hydrant locations. Location of Fire Department Connections (FDCs) for the required automatic fire sprinkler system and standpipe system are a deferred item but shall be on the street side of the development. FDC's for the large mixed-use building sprinkler and standpipe shall be inter-connected and located on the EVA aerial fire lane and another on John Muir Parkway. CFC Appendix C.
- e. Private Underground Fire Mains (aka on-site mains behind the detector check) require a separate Fire Department permit. Public or private fire mains (shown on C-300) are expressly prohibited from running under buildings. CFC 507.
- f. The Rodeo-Hercules Fire Protection District has adopted a local ordinance which requires automatic fire sprinkler systems in certain type/size of new construction. All structures shall be protected with automatic fire sprinkler systems in accordance with CA Fire Code Chapter 9 as adopted by the Fire District. CFC 903.
- g. Project is required to provide a Class 1 standpipe system throughout. System shall be in-service prior to any construction occurring at or beyond 40'. CFC 905 & 3313. (F)
- h. The Applicant shall implement a smoke exhaust system with fan switches at the Fire Alarm Control Panel and at all stair enclosure openings to the Garage; all as a means to provide a form of smoke exhaust to provide a more tenable environment during firefighting (same as Block N (Creekside)) in the below-grade windowless parking garage and shall enlarge

the SE stair enclosure (off JM Parkway) to 60" with 48" door assemblies along the fire access route. CBC 910. (F)

- i. An exit analysis shall be submitted with the Building permit set. Areas of Refuge or Areas of Assisted Rescue shall be identified and provided with a two-way communication system per CFC 1009. Preliminarily, the door swing on Residential Lounge's needs to be reversed to swing in the direction of exit travel. CFC 1003. (F)
- j. The height of the building exceeds the maximum reach of the RHFD ladder truck. As mitigation for delays in establishing rescue and fire attack aloft, the District will be evaluating built-in fire protection enhancements. (F)
- k. As mitigation for delays in response time, traffic signal pre-emption (Opticom or compatible) shall be provided on traffic signals lacking same. Locations within the response route to be identified by the District. (F)
- l. Review of the Environmental Site Assessment, re-use of the site and implementation of the construction program shall be approved by Certified Unified Program Agency (CUPA), Contra Costa Hazardous Materials Programs, 4585 Pacheco Blvd. Suite 100, Martinez, CA 94553, ccchazmat@hsd.cccounty.us (925-335-3200). (F)
- m. Site address signage per current Fire Department Standards shall be established and maintained during and after any combustible construction or intensification of site use. A complex directory shall be provided at the main entrances. CFC 505. (F) (PL)
- n. Elevators shall accommodate a medical stretcher. The fire resistive smoke assembly used for the elevator must be operable from the elevator cab (by first responders). CBC 607. (F)
- o. Required Fire Department access roads shall be signed "No Parking-Fire Lane" per current Fire Department standards and the CA Vehicle Code. CFC 503. (F)
- p. Traffic calming measures or controls (speed bumps, humps, undulations, gates, etc.) are not approved as a part of this review and require specific approval from the Fire Department. CFC 503.4. (F)
- q. Structures and lockable gates limiting vehicle access to commercial facilities shall be equipped with a Fire Department approved locking device or Fire Department approved key system ("Knox" lock or "Knox" keyed lock). Access controls on fire department response routes shall be electrically operated, equipped with pre-emption and Knox-key override (gates, barriers, retracting bollards, etc.). CFC 506. May also require key access codes for Police Department as well. (F)(PD)
- r. A bi-directional public safety emergency responder radio system, designed and installed per current Fire Department standards, is required in all new structures. System can be building specific or a campus-wide system can be provided. CFC 510. (F)
- s. Rooftop Solar Photovoltaic Systems shall comply with the CA Fire Code and CA State Fire Marshal Guideline. CFC 605. (F)
- t. Required Fire Department permits that are eligible for deferred submittal: Construction; Underground Fire Main, Automatic Fire Sprinkler System, Fire Standpipe System, Fire Alarm System, Sprinkler Alarm Supervisor Service (water-flow monitoring), Fixed

Extinguishing System (if cooking facilities), High Pile Combustible Storage (if >8' in retail or 12' in storage), Fire pump, Generator Fuel Storage (if proposed). Operation; Apartment Building, Bi- Directional Repeater System. CFC 105. (F)

- u. The developer shall remit the fire development impact fee with the Building Permit submittal. (F)
 - v. The developer shall submit a "Fire Safety During Construction" plan to the Fire District at the time of Building Permit submittal. CFC 3308. (F)
 - w. Emergency Evacuation Guide and signage (entrances, stairwells, elevator lobbies) and Stairwell identification signage shall be provided and submitted to the RHFD for review to ensure all required information is provided in the plan and on the floor plans. CFC 403 & 1023. (F)
 - x. Storage or use of any hazardous materials at the site (such as diesel fuel for the on-site generator or acid for batteries) will require a Hazardous Materials Business Plan be submitted to the CUPA. CFC 5001. (F)
 - y. Access roads and water supplies for fire protection shall be installed and made serviceable prior to storage or construction of any combustible materials. CFC 3312. (F)
 - z. Proposed gating within Parking Structure A may require additional pedestrian exits and shall be added to meet Fire District requirements.
30. **Final Map/Public Access/Rights of Way:** Prior to the issuance of Building Permits, a Final Map shall be recorded, subject to City approval, that covers the geographic area occupied by Blocks "Q" and "R", including the segment of the "Loop Road" as shown in the project plans, and including the area of the Emergency Vehicle Access (EVA) proposed between Blocks "R" and "P" and tied in to Linus Pauling as depicted in the project plans.
- a. The Final Map shall include an offer for dedication to the City for the 66' right of way for the segment of the Loop Road depicted in the project plans, including a "temporary public access easement" for a portion of the corner of Block "O" where a temporary "cul-de-sac" turn around is depicted.
 - b. Grading/Hillslope easements shall be removed between the developer and the beneficiary to not include the Project Area and reflected on a clean title report.
 - c. Between Blocks R & P, the Final Map shall include a "reciprocal access/parking easement and joint maintenance agreement" to include the 26' wide section clear driving area plus the two 8' parking lanes for a total of 42' to access Parking Structure B and adjacent EVA lanes around the building and tied into Linus Paul road (as shown in the Vesting Tentative Map) extending from the Loop Road to the Bio Rad property line.
 - d. The Final Map shall include an "EVA easement" and "" access easement" to the 20' wide EVA that extends around the north and east sides of the proposed building.
 - e. An "encroachment easement and agreement" shall be identified on the final map and concurrently recorded with the final map granting the property owner an

easement and right to install and maintain overhead structures such as awnings and building arcade(s) in or over the City Right of Way prior to issuance of building permit.

31. **Affordable Housing:** The Project shall contain a minimum of fifteen (15) affordable housing units out of the 232 total units proposed that are affordable to residents with income levels at or below 60% of the County median income level; provided, however, that this affordability requirement may be modified in accordance with Section II.A of Exhibit "E" of the IDA. Additionally, as stated in the IDA, Exhibit "E", section III, the "City and Owner agree to meet and confer in good faith on the administrative implementation of the Alternate Inclusionary Housing Program." The Property Owner shall record covenants on the property requiring specific units to be maintained as permanently affordable with an annual report provided to the City to submit with its annual report to the State.
32. **Design of 20' Wide EVA Surrounding Building:** In order to ensure the Fire Department requirements are met while creating an attractive pathway around the building, the 20' wide EVA that surrounds the apartment building shall be revised from the plans that currently depict a 20' wide slab of solid concrete or asphalt. An alternate plan shall be prepared that introduces a combination of "turf block", unit pavers, and other alternate materials that creates a desirable environment for bicyclists and pedestrians while accommodating the equipment used by the Fire Department. City staff will work with the Fire Department and the Property owner to develop a plan, subject to City staff approval, that meets the needs of all parties, including the City's. This plan shall be prepared and adopted prior to issuance of building permits.
33. **Project Fencing:** The details and location of all proposed project fencing, including material samples if needed, shall be submitted for staff review and approval prior to the issuance of building permits. Any fencing visible from the public rights of way, including trails, shall be of a decorative material as determined by the City.
34. **Screening of Above Ground Utilities:** All above ground utilities visible from public rights of way shall be screened with landscaping, decorative materials, berming or other means as determined by the City.
35. **Notification and Potential Future Commercial Use:** There is a possibility in that future that a portion of the 12,000 square feet of ground floor residential amenity space with John Muir Parkway frontage may be converted to commercial use. Projects in the T5-MST zoned area are to be designed to allow the flexibility for the morphology/evolution to accommodate future commercial uses over time and project plans need to utilize the type of construction that could accommodate conversion in the future.
36. **Fees Required:** Applicant shall pay their fair share costs of traffic mitigation fees as identified in the Traffic Assessment Report as part of the 2011 Bayfront Plan EIR in addition to Parks and Recreation Facilities, General Public Facilities, Police Facilities, Fire Facilities, Sewer Facilities, Community Development Tax, West County Sub-regional Transportation Mitigations Fee (STMP), all other fees that are applicable to the project under both applicable regulations and the Implementing Development Agreement (IDA), and all other applicable building permit fees imposed by the City in the Master User Fee list and other public and regulatory agencies (provided that such fees are authorized under the IDA), and all applicable processing charges, prior to the issuance of building permits. For Blocks Q & R, (a) the Applicant will pay the full Public Benefit Fee as set forth in Exhibit I of the IDA; and (b) sewer connection fees are not applicable to the Project. For future

blocks, applicant shall pay the full Public Benefit Fee as set forth in Exhibit I to the IDA (so long as the condition precedent to such payment as set forth in Section 3.1 of the IDA has been satisfied), and if applicant pays the full Public Benefit Fee, it shall not be required to pay the sewer connection fee; provided, however, that if the applicant does not pay the full Public Benefit Fee, both the City and the Applicant reserve their rights regarding the payment or non-payment of the sewer connection fee.

37. **Applicable Conditions of Implementing Development Agreement:** In addition to the foregoing conditions, the project shall be subject to the applicable Conditions of Approval contained in the Implementing Development Agreement attached herein as Exhibit A which includes general conditions as well as mitigations measures to be carried out by the Owner with the items applicable to this project being asterisked.

BE IT FURTHER RESOLVED that if there is any conflict between the attached Approved Development Review Resubmittal Plan pages and or the conditions of approval, the Planning Director shall reasonably resolve the issues based on the general intent discussed in the staff reports, environmental documents and City policy.

The foregoing Resolution was duly and regularly adopted at a regular meeting of the Planning Commission of the City of Hercules held on the sixteenth day of April 2018, by the following vote:

AYES: Morrison, Rubio, Tolley, Galieva, and Bailey
NOES: None
ABSTAIN: None
ABSENT: None



Dion Bailey, Chairperson of Planning Commission

ATTEST:


Holly Smyth, Secretary to the Planning Commission &
Planning Director

Exhibits

- A. Overall Bayfront Conditions of Approval from the Implementing Development Agreement (IDA)- Exhibit L with applicable items asterisked
- B. Development Review Resubmittal #3 Plans - with Revisions Through 4/30/2018 for Planning Commission 5/7/2018 Meeting (includes General, Architectural, Civil, and Landscape Plans set)
- C. CEQA Findings Concerning the Approval of the Hercules Parcels Q&R Project
- D. Design Review Permit #DRP 17-06 Findings with Facts

Any determination or decision made by the Planning Commission may be appealed to or by the City Council, as stated in Chapter 44 of the Hercules Zoning Ordinance by filing a written appeal with the Planning Director within 10 business days of the mailing or posting of the notice of decision.