



## Planning Department

**TO:** Chairperson and Members of the Planning Commission

**FROM:** Holly Smyth, AICP, Planning Director  
Robert Reber, AICP, Adjunct Planner  
Bruce Brubaker, PlaceWorks

**DATE:** April 1, 2019, Planning Commission Meeting

**SUBJECT:** Design Review Permit No. 19-01 by Hercules Bayfront Blocks M-P & O, located in the Hercules Waterfront District Master Plan Area (Design Review Permit 19-01)

**APPLICANT:** Benjamin L. Ortega,  
Hercules Land Development Partners, LP  
114 Pacifica, Suite 100  
Irvine, CA 92618

**LOCATION:** Bayfront Blocks M, O, and P (Parcels 21, 27, and 28, respectively, of the Hercules Waterfront Vesting Tentative Map)  
Assessor Parcel Number 404-730-005  
Intersection of John Muir Parkway and Bayfront Loop  
Hercules, California

### 1. RECOMMENDATION

That the Planning Commission:

- a. Invite the applicant to make a presentation;
- b. Request staff present further information on the project;
- c. Open the public hearing;
- d. Receive comments from the Commission and the public;
- e. Close the public hearing;
- f. Consider comments made at the meeting, including comments made by staff, the applicant, and the public;
- g. Consider Adopting the attached resolution 19-03 approving the application for Design Review Permit 19-01, subject to the conditions contained therein (Attachment A), including the required Design Review findings, and finding the adequacy of the previously certified 2011 Bayfront Environmental Impact Report.

This public hearing before the Planning Commission will allow **Hercules Land Development Partners, LP (hereinafter “the Developer”)** to present its project in detail to the Commission and the public, focusing on project design and consistency with the Hercules Waterfront District Master Plan (HWDMP), its included form-based code provisions, and other applicable City regulations. This hearing will also provide an opportunity for the Commission and the public to ask questions and comment on the project and City requirements, and if necessary, request additional information and provide direction to staff and the applicant. At the conclusion of discussions on this agenda item, staff recommends that the Planning Commission consider adopting the attached resolution #19-03 (see Attachment A) approving Design Review Permit #DRP 19-01, including all CEQA findings and Design Review Permit findings, subject to the conditions of approval contained therein.

However, should the Planning Commission either require additional time to consider the project or provide direction to the applicant or staff for follow-up action, then the Planning Commission should continue this public hearing to the Commission’s next regular meeting on April 15, 2019, or such other future meeting as determined by the Commission.

## **2. PROJECT OVERVIEW AND RELEVANT HISTORY**

The Developer provided an update regarding all project activity in the Bayfront project area to the City Council at the January 8, 2019 regular council meeting, which included a preview of the project designs for Bayfront Blocks M-P and O, and at which a number of related issues, including the future of the Waterfront Parking District, were discussed. The Parties are working towards a resolution of the Waterfront Parking District issue, and the need for establishing such a District is addressed in the proposed Conditions of Approval. As to design, Council suggested to use concrete shingles to better hold up to the weather and to provide additional fire protection instead of wood shingles, but to the extent wood shingles are used, to allow them to grey naturally. It was also suggested by the Council that an overall estimated development density summary sheet with a bedroom count listing be provided with each new Design Review submittal so that it can be clearly seen that the overall development does not exceed maximum entitlement caps. The Developer has provided that information for the Blocks M-P and O.

This Design Review application for Bayfront Blocks “M,” “P,” and “O” consists of two multi-story apartment complexes without any near term retail uses. While the applicant has discussed the possibility of submitting a condominium subdivision map at a future date in order to be able to sell the units, the project is for the foreseeable future a rental project.

Main summaries of each complex are provided on pages A02 and A03 for Blocks M-P and A22 and A23 for Block O. Blocks M-P would be combined into a single apartment complex ranging from three to six stories (some with mezzanines which do not count as additional stories per the building code) with 325 apartment units (20 of which would be designated affordable housing units) with ground-floor lobbies, and residential amenities totaling approximately 12,210 square feet and 401 onsite parking stalls. Block O would be a four-story, 151-unit apartment complex (10 of which would be designated affordable housing units) with 7,530 square feet of amenity space (that could be converted flex-space in the future) and 151 onsite parking spaces. The two apartment projects are proposed on a combined 4.47 net acres of land outside of City right-of-way within the larger Bayfront Project Area, and is located

within the Transit Village subarea of the Hercules Waterfront District Master Plan northeast of John Muir Parkway and Bayfront Boulevard. The density proposed is 106 units/"net" acre (see below for more detail on "net" acreage and "net" density, as well as gross acreage and gross density).

The project is regulated by the [Hercules Waterfront District Master Plan \(HWDMP\)](#), originally adopted in 2001 and subsequently amended in 2008 by the Waterfront Now Initiative and in 2012 with several amendments as agreed to by the property owner and the City. The Plan covers an area known as the Hercules Bayfront which allows for development of up to 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. In October 2011, the City Council certified the Hercules Bayfront Project Final Environmental Impact Report, including a Mitigation Monitoring and Reporting Program (MMRP). In March 2013, the Council approved various Development Agreements (available on the City's website at <http://www.ci.hercules.ca.us/index.aspx?page=229>) that indicated which mitigation measures the developer would be responsible for and which ones the City would be responsible for as part of a public-private partnership for this transit-oriented project area.

Bayfront Blocks M-P and O represent the third phase of the Bayfront project to move forward under the terms of the development agreements. The City has previously approved design review permits and issued building permits for Block N, which is currently under construction, and Blocks Q-R. A key focus of the Design Review process is determining the project's conformity with the HWDMP (including project architecture, building design and materials, project landscaping, and site layout, including parking, ingress, egress, and access for emergency responders) as well as reviewing for environmental compliance and conformity with the Development Agreements.

The HWDMP contains 4 chapters focused on Building Form Standards, Architectural Styles, Civic Space Standards, and Street & Circulation Standards. Building Form Standards and Architectural Styles are outlined as part of the design package using comparison tables on pages A03 and A23 to show how the two apartment complexes' designs conform to the Form Based Code. The HWDMP has Civic Space Standards and Street and Circulation Standards overview pages in 3-3 and 4-3 respectively that are used by staff to determine conformity with the plan with each chapter's supporting specifics which are further discussed below.

The applicant submitted a formal application for Design Review Approval to the City on January 10, 2019. The City team reviewed the application for completeness and, on January 30th, sent the applicant a letter indicating the application was incomplete, requesting specific additional information and clarifications. Concurrently, the City distributed the project plans for review to the Planning, Public Works/Engineering, Police, and Parks & Recreation Departments, as well as the Rodeo-Hercules Fire District and Republic Services (waste management). The City convened an "all hands" meeting on February 13 for City staff, the applicant, and outside agencies to review and comment on the plans. Based on these comments and the letter of incomplete application, the applicant submitted a revised Design Review package to the City on February 27 (see Exhibit B1-B5). By March 4, the City had provided hard copies of this most recent resubmittal to the Planning Commission (with courtesy copies provided to City Council) and posted an electronic copy on the City website. Subjective Design Review issues are discussed further in the report under Issues for Planning Commission Consideration.

### 3. DESIGN REVIEW PROCESS UNDER THE DEVELOPMENT AGREEMENT

Under the Implementing Development Agreement for the Hercules Bayfront Project, a streamlined Design Review process is allowed if Bayfront applications are: (a) consistent with the Project Approvals; (b) do not cause an amendment to the General Plan, Zoning Ordinance, or Hercules Waterfront District Master Plan; (c) do not require additional environmental review (over the original environmental impact report); (d) are not subject to concurrent review and approval by jurisdictional agencies; and (e) are for design review approval. Additionally, if a project application is less than five gross acres in size, the application will only be subject to Design Review under City Zoning Ordinance Chapter 42, which requires Planning Commission approval, and is not subject to a Final Plan Development Plan, which would require City Council approval.

The City of Hercules Zoning Ordinance (Chapter 42) defines the purpose of and types of projects subject to Design Review, including new construction and any substantial exterior alteration of any public or private building which require review and action by the Planning Commission. In approving a design review permit, the Planning Commission must consider five (5) specific required findings under Design Review and must be consistent with the Form Based Code contained in the HWDMP.

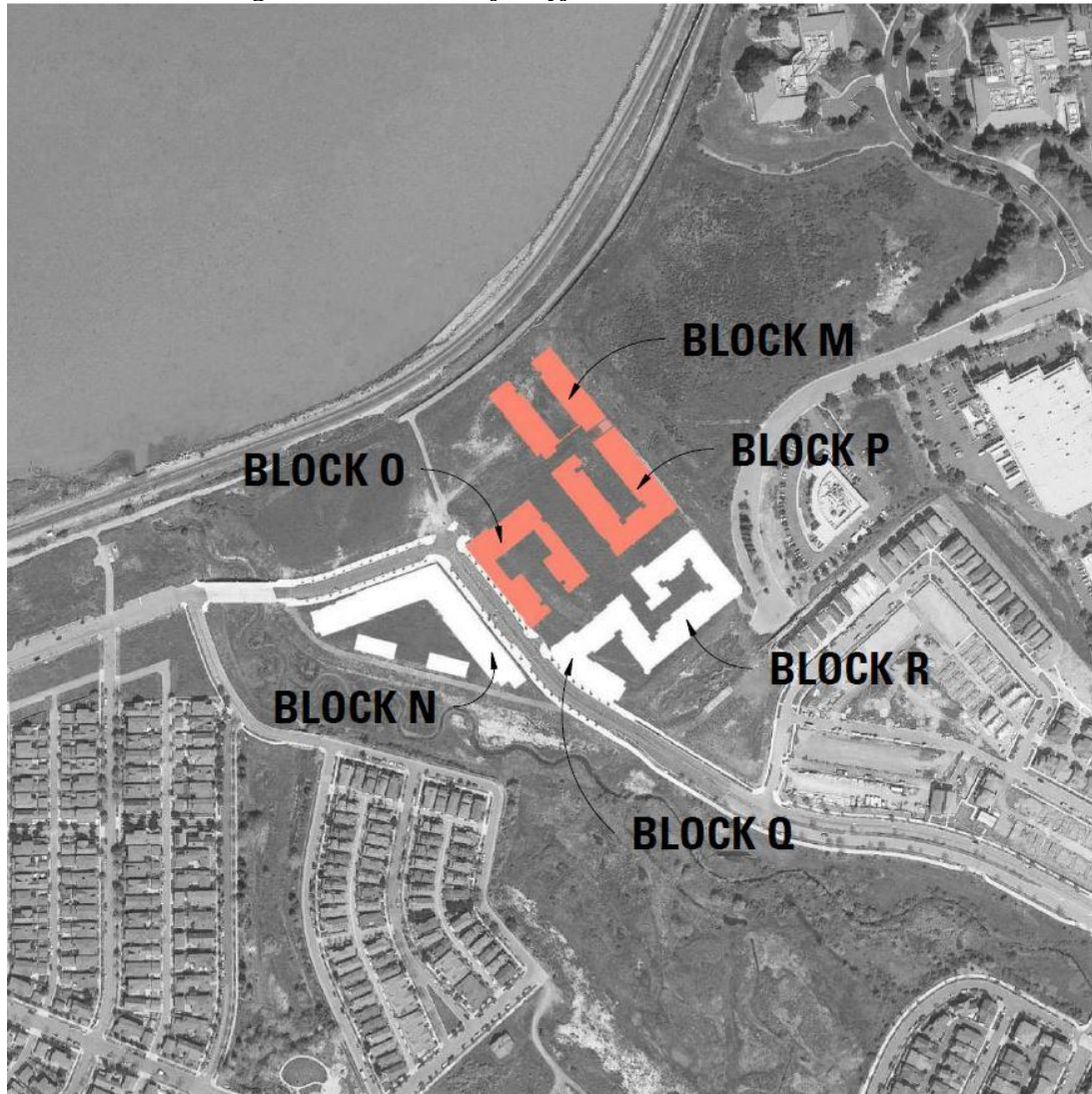
Because the project is subject to discretionary review, a public hearing notice was published in the newspaper and sent to all property owners required to be noticed pursuant to the Zoning Ordinance. Staff's analysis confirming that the project fits within and conforms to the previously certified 2011 Bayfront EIR is included as Exhibit C to the Draft Planning Commission Resolution.

### 4. PROJECT DESCRIPTION

**Overview:** Bayfront Blocks M-P and O are on currently vacant land, generally located east of Bayfront Boulevard and north of John Muir Parkway, bounded by San Pablo Bay and the Bay Trail to the north, the North Shore Business Park to the east, and Bayfront Blocks Q & R to the south. Blocks M-P will face south onto a proposed new loop road ("Bayfront Loop"), which along with John Muir Parkway, will completely encircle Block O. The project area is located on a portion of existing Assessor's Parcel Number 404-730-005-0 that is identified as Blocks M-P and O, or respectively as Parcels 21, 27, and 28 of the Hercules Waterfront Vesting Tentative Map.

The Design Review package cover sheet and pages A01.0, A01.2 and A01.3 show overall visuals of how previously approved Blocks N, Q-R, proposed Blocks M-P and O, and conceptual future blocks might interact within the Transit Village and layout with a summary statistics sheet for the entire Bayfront area on the cover sheet.

**Figure 1. Location of Bayfront Blocks M-P and O**



Pages A 01.2 and A01.3 show heights of various portions of the project above grade in “stories” as defined by the Building Code with the top of each building height shown above sea level. Whereas, pages A04 and A24 show various roof heights above adjacent grade to better understand the building massing. The HWDMP defines “Height” as “A limit to the vertical extent of a building that is measured in number of stories. Height limits do not apply to masts, belfries, clock towers, chimney flues, water tanks, elevator bulkheads, and similar structures, which may be any height approved by the Director.” In looking at the Building Form cross sections in the HWDMP within the T5-VN and T5-MST districts, height is shown to be measured from adjacent street grade in “stories” not feet. Mezzanines or lofts within an apartment unit with one entry door is not considered an additional “story” in the Building Code and therefore is not treated as a “story” under the limits of the HWDMP (which was also applied to Block N that contained mezzanine / loft units). Blocks M-P are allowed to be a maximum of 8-stories while Block O is limited to 4-stories. The proposed plans conform to the height limitations of the HWDMP.



Construction on Blocks M-P consists of two contiguous “U”-shaped buildings with a shared podium courtyard open to San Pablo Bay to the northwest. With two exceptions, the four façades vary from four to six stories, with a maximum roof height above adjacent grade of 74 feet (which is 101’ above sea level). The two height exceptions are (a) a section of single-story apartments along the north elevation, to afford courtyard views of the Bay, and (b) a one-level section along the east elevation where a single-story, 540-sf private library joins (but does not provide access between) the two primary buildings. The buildings would contain 325 apartments (containing 395 bedrooms), plus an additional 12,210 square feet of amenity spaces (which square footage is not consistently listed throughout the plans and should be corrected or clarified as to their differences), primarily in a tall ground-floor level facing the public sidewalks. The structures and courtyard sit on top of two levels of podium parking with a total of 401 parking stalls served via two entries, one along Bayfront Loop and one off the private road shared with Block R, with the lower parking level (Level P) only accessed via ramp from the top level of parking.

Block O consists of 151 apartments (10 of which would be designated affordable housing units, and 151 bedrooms) and 7,530 square feet of residential amenity space per page A22 (which square footage is not consistently listed throughout the plans and should be corrected or clarified as to their differences) in a single “U”-shaped building with a podium courtyard, oriented to the southeast to maximize sun exposure. All four façades of Block O are four stories, with a maximum roof height above adjacent grade of 66.5 feet (which is 87.5’ above sea level). A tall ground-floor level of amenity space faces John Muir Parkway to allow for potential future morphology, and primarily ground-level apartments face Bayfront Loop. Parking is provided in two independent podium-levels with 151 parking stalls total with one exterior ramp per parking level with no internal ramps between the parking levels.

**Proposed Structures:** Blocks M-P would each have multi-story “U”-shaped structures that together form a unified apartment complex. Though joined on the north side by a single-story library, there would be no direct indoor connection between the two buildings. However, the two shared levels of podium parking and the shared podium courtyard would provide access between the two sides of the structure. The buildings would contain 332,103 square feet of space devoted to residential use (including apartment space, hallways, elevators, and stairs, and 12,210 square feet of amenity space). At the center of the “U”-shaped buildings would be a shared courtyard with 29,300 square feet of plantings and hardscape. Two levels of parking garage with 401 total parking stalls would add another 332,103 square feet of structure. However, most of structured parking does not contribute to the visible mass of the building as the garage space is largely below grade or concealed behind public-facing amenity spaces and apartments. The architectural design reduces the apparent mass of the buildings by varying the building heights and façades and with the main lobby entrance and courtyard stairs next to the centrally located neighborhood plaza.

The 12,210 square feet of internal residential amenities at Blocks M-P include proposed space for a WiFi lounge, two lobbies, two mailbox areas, a work-share space, pet spa, fitness area, leasing office, and bike storage on Level 1 facing Bayfront Loop or the private drive shared with Block R. Interior amenities on Level 2 accessed from the podium courtyard include a proposed library room, tap room, lounge, and yoga room. At just over an acre (43,770 square feet), the landscaped podium courtyards provide outdoor amenities include planted berms, lounge seating, firepits, and two outdoor kitchen and barbeque terraces, one of which would overlook the adjacent Neighborhood Park, the Bay Trail, and San Pablo Bay.

Block O would be a separate apartment complex within a single, four-story “U”-shaped structure with two separated levels of podium parking. The visual mass of the building is reduced by varying roof pitches and heights. The building would have 139,230 square feet of space devoted to residential use, 7,530 square feet of amenity space. The residential amenities being proposed include a leasing office, lobby, lounge, mailboxes, bike storage, pet spa, fitness/yoga area, and shared work space, all of which would front onto John Muir Parkway. The center of the “U”-shaped buildings would be a podium courtyard with 11,800 square feet of landscaping, gardens, outdoor tables and seating, firepits, barbeques, and a dog area. Under the courtyard, the two levels of parking would provide 151 parking spaces, accessed from Bayfront Loop via two ramped driveways. As with Blocks M-P, the structured parking is almost entirely either below grade or concealed behind public-facing amenity spaces and apartments and thus not viewable from public right-of-way. The architectural design reduces the apparent mass of the buildings by varying the building heights, rooflines and façades with the single lobby entrance at the corner of Bayfront Boulevard and North Bayfront Loop and an exterior stairway that accesses a central courtyard from South Bayfront Loop adjacent to Block Q.

**Proposed Mix of Units:** Blocks M-P include 325 apartments, which consist of 71 studio units, 184 one-bedroom units (6 with lofts), and 70 two-bedroom apartments (19 with lofts), with an average unit size of approximately 822 gross square feet. Block O comprises 151 apartments, 76 of them studios and 75 one-bedroom units, with an average size of 696 square feet. (For comparison to prior Bayfront approvals, the average unit size is 825 square feet for Blocks Q & R and 854 square feet for Block N). The applicant has discussed the possibility of submitting a condominium subdivision map at a future date, but the project is for the foreseeable future a rental project.

While the majority of the units are market rate, the Development Agreement (DA) requires at least 5% of total residential units be dedicated as affordable housing for households with an income level not exceeding 60% of the median income level. A total of 20 housing units within Blocks M-P are proposed to be affordable, with another 10 affordable housing units at Block O. These 30 combined units, plus the already approved 15 affordable units at Blocks Q-R, meets the provisions of the DA that require that at least 25 out of the first 500 Bayfront residences be affordable units, with an additional 13 affordable units for every 260 additional residences. (None of the 172 residences at Block N are proposed to be affordable units.) Thus, with completion of Blocks M-P, and O, and Blocks Q-R, 45 units (equal to 5.1%) of the first 880 Bayfront residences will be affordable units and satisfy the 5% requirement. The Development Agreement requires the “City and Owner agree to meet and confer in good faith on the administrative implementation of the Alternate Inclusionary Housing Program set forth in this Exhibit E.....” and agreement on administrative implementation should be completed prior to the issuance of certificates of occupancy consistent with provisions of Section 10-19 – “Inclusionary Housing” of the Hercules Municipal Code. It is the City’s position that the affordable units include a proportional unit mix.

No commercial uses are currently proposed within the project, however the design of public-facing amenity spaces areas along John Muir Parkway for Block O could readily accommodate future ground-floor commercial uses, thus meeting the primary purpose of the T5-MST and T5-VN districts (as defined in the HWDMP) to provide flexibility of uses as the Waterfront District evolves.

**Proposed Parking:** The Hercules Waterfront District Master Plan (page 1-34) mandates at least one resident/guest parking space for every 1,500 square feet of residential space, except that affordable housing units do not count towards the residential space. The code also states that non-residential spaces be provided a minimum of 2 spaces per 1,000 square feet, up to a maximum of 3 spaces per 1,000 square feet. In looking at the various components of the two apartment complexes and the proposed on-site parking, including any plausible future conversion of amenity space to commercial uses, the proposed on-site parking within Blocks O and M-P meets the parking requirements of the HWDMP as to the number of spaces provided on-site to the Code requirements.

Under Exhibit H of the Implementing Development Agreement, the approval of the (*overall Bayfront*) project requires “all parking for the Owner’s project shall be accommodated by a Public Parking District designed to accommodate both public and private parking needs, except for: (i) spaces reserved for residential use per code, excluding guest parking; and (ii) some minimum portion of office parking required also to be reserved for key tenants, but not more than 10% of all office parking.” Additionally, the Parking Standards for all Zones section of the HWDMP are discussed on pages 1-34 and 1-35 of the Plan. Under the “Residential Parking Permit District” heading it states that “upon the establishment of commercial development or transit service in Hercules Waterfront or sooner, the Director shall establish a Residential Parking Permit District ordinance”. Lastly, under the “Parking Management” heading it states that” the City shall establish a parking management ordinance.

City staff has retained parking consultant CDM Smith to analyze the overall buildout parking demands based on phased scenarios tied to the future Regional Intermodal Transit Center (RITC). Because the Parking District has not been formed, staff is including specific conditions of approval to make sure that the project fully accommodates options for a shared public-private parking district, such as security gate locations to delineate public parking spaces within on-site parking garage areas, once the Parking District is formed.

Tucked either under or behind apartments and amenity spaces and thus largely hidden from public view, the two-level parking structure at Blocks M- P provide 401 total spaces, which is 191 spaces more than the 210 on-site parking spaces required by code calculations. To meet HWDMP and Building Code requirements: 142 spaces (35%) will be compact; 21 spaces (5%) will offer electric-vehicle charging; 18 (4%) will be handicap accessible; and 4 (1%) will be handicap-van accessible. The applicant proposes that all 231 of the lower-level parking spaces (Plan Level P) be restricted to resident/ employee use only via a key-controlled security gate at the top of the internal ramp; separate security gates will similarly restrict access to 122 of the 170 upper-level spaces (Plan Level 1), thus leaving 48 spaces (12%) available for guest parking.



Similarly, at Block O, the two separated levels of parking provide a combined 151 spaces, 63 more than the 88 spaces required by HWDMP code. Of the 151 total spaces: 48 spaces (32%) will be compact; 9 spaces (6%) will offer electric-vehicle charging; 7 (5%) will be handicap accessible; and 1 (1%) will be handicap-van accessible. The applicant proposes that key-controlled security gates will restrict access to all 58 of the upper-level (Level 01) spaces and 78 of the lower-level (Level P) parking spaces to residents only, thus leaving 15 lower-level spaces (10%) available for guest parking. To encourage efficient use of parking, the HWDMP code stipulates that in no case may any of the spaces—including those in resident/employee-only areas—be individually assigned to specific residents or units.

If amenity spaces in either Blocks M-P or Block O are converted over time to retail or office uses,<sup>1</sup> the minimum number of required on-site spaces would increase. Thus, for Blocks M-P, full conversion of all 12,210 square feet of amenity space could increase the minimum required number of additional spaces by 31–47 stalls, for an adjusted required minimum up to 257 spaces. Conversion of all 7,530 square feet of amenity space at Block O could increase the minimum number of additional spaces by 17–26 spaces. There is ample on-site parking to meet this higher required minimum should future conversion to retail uses occur.

Bayfront Loop will have approximately 50 on-street parking spaces, with likely another two spaces reserved as loading zones and trash-pick up locations. The private drive shared with Block R will provide another 10 spaces of adjacent on-street public parking. John Muir Parkway beside Block O will provide another 8–10 parking spaces, plus another loading zone. However, with on-site parking well beyond that required by the HWDMP, the project does not need to take advantage of these on-street spaces to meet its minimum code required parking.<sup>2</sup> Thus the project does not need to count on-street parking within the public right-of-way to satisfy off-street parking for non-residential uses (which the project does not include at this time). However, the potential future conversion of the amenity spaces—and with it the higher minimum required on-site parking—could limit the availability of on-site parking to include in a future shared private–public parking district, as stipulated in the HWDMP and the Bayfront Development Agreement.

Blocks M-P are to be served by two levels of parking that span both blocks. Access to both levels of parking are through two entrances to the upper level (Plan Level 1): one off Bayfront Loop, and the other off the private drive directly opposite the parking entrance to Block R. The lower level (Plan Level P) of parking is accessed via a 24-foot-wide ramp from the upper level.

Block O will also be served by two levels of parking. The lower level (Level P) will be accessed via a ramp down from North Bayfront Loop on the northwest side of the block, approximately 95 feet from the intersection with John Muir Parkway. The upper level (Level 1) will be

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<sup>1</sup> Based on the applicant's current anticipated build-out of the Bayfront project, no spaces could be converted to additional residences, unless the WDMP were amended and further environmental review under CEQA conducted. The applicant anticipates 1,526 residences total will be built at Bayfront, which is the maximum number of residences allowed by the WDMP and analyzed in the 2011 Bayfront EIR. The 1,526 residences includes the allowed use of up to 134,000 square feet of "flex space" for 134 residences. Thus amenity spaces will only be able to convert to either retail or office use, provided the total square footage of each use remains under the 90,000 square feet of retail and 35,000 square feet of office space allowed in the WDMP.

<sup>2</sup> WDMP code allows—at the discretion of the review authority—off-site parking (within 1,250 feet of a use) to meet parking requirements.

accessed via a ramp from the inner most portion of Bayfront Loop on the northeast side of the block. To maximize the amount of on-site parking, the two garage levels are completely separate, since connecting the two levels with an internal ramp would require eliminating parking spaces.

A transportation analysis by Fehr & Peers shows that vehicle traffic in and out of all the garage levels will not cause any circulation issues, and that queuing of cars should not exceed 1–2 vehicles at any one time (see Attachment 2). However, for vehicular and pedestrian safety, staff recommends a condition of project approval that all four of the garage entrances be equipped with audio/visual warning devices (subject to Public Works Director approval) to alert drivers and pedestrians of vehicles entering and exiting the garage. Staff recommends the condition approval include a requirement that the applicant provide analysis showing that vehicles coming up the internal garage ramp at Block P to exit the garage can do so without turning into opposing traffic.

**Site Grading/Topography:** The current pad grade of Block O lies approximately 10–12 feet above the grade of John Muir Parkway due to prior surcharging work to prepare the site soil for construction -per Exhibit B.4, Existing Conditions—Sheet C1.0) and Grading Plan—Sheet C3.0). The current elevation of Block P similarly rises roughly 4–6 feet above what will be the finished grade for Bayfront Loop (Block M at its nearest point is generally level with what will be Bayfront Loop per Exhibit B.2, Existing Conditions, Sheet C1.00, and Grading Plan, Sheet C3.00). According to Page C3.00 at the backside of Blocks M-P and the Northshore Business Park there is a retaining wall that ranges from 3' to 20' in height with 9 to 21.4' above the emergency vehicle access lane. However in looking at pages A07.1 cross section A doesn't clearly show the highest portion of the retaining wall and needs to be modified to more accurately show the higher level. It is unclear as to the proposed materials of the retaining wall or what type of plant materials are proposed and should be clarified. Additionally, it appears that an open black steel fence will be placed on top of the rear retaining wall per page L2.01A(R7) of the drawings with the height of this fence being 42" tall per page C2.00, which height should also be reflected on page L2.01A(R7). The landscape plan shows a row of redwood trees north-east of the large rear retaining walls on Bio Rad property as requested by Bio Rad. The weight of the redwood trees, when mature, as proposed by Bio-Rad will impose a significant load on the retaining wall given the amount of water and the mature size of redwood trees, and therefore this should be taken into account when engineering the wall. Given the proposed grading, neither Blocks M-P nor Block O will require any earthwork filling, but both sites will require a combined removal of 66,000 cubic yards (50,000 CY for Blocks M-P and 16,000 CY for Block O), which most likely will be hauled off-site to an as yet undetermined location. Such off hauling shall require a grading permit processed by the Engineering Department in conformance with the assumptions of the project Environmental Impact Report.

**Regulatory Documents:** The project design is required to be consist with the adopted [Hercules Waterfront District Master Plan \(HWDMP\)](#), including its Form-Based Code (FBC). Some of the analysis of project compliance with these applicable plans is stated in the design documents on pages A02 and A23 and within the following “Required Findings” section of this staff report and Exhibit D to the draft Resolution.

## 5. ISSUES FOR PLANNING COMMISSION CONSIDERATION

**Overview of Issues:** The proposed two apartment complex designs generally support the overall goals of the HWDMP and the objectives of its Form-Based Code. In reviewing the proposed project, staff and our consultant PlaceWorks have raised a number of issues, the majority of which the applicant has already addressed. Staff requests Planning Commission review and comment on the following subjective topic areas which relate to consistency findings that the Planning Commission ultimately will need to make to approve the project. In addition to the consistency-related findings, several policy and design related issues warrant discussion by the Planning Commission.

**Proposed Merger of Blocks M & P:** The Hercules Waterfront District Master Plan depicts Blocks M and P as two distinct parcels which the HWDMP provides an illustration with two clearly separated buildings on page i of the Plan. Consistent with this, the Hercules Waterfront Vesting Tentative Map (VTM) separately identifies Blocks M and P as Parcels 21 and 27, respectively. However, the T5-VN district has a 0' minimum side setback and therefore buildings could be built contiguous to each other. Additionally, the Street and Circulation Regulating Plan on page 4-3 of the HWDMP does not show a required access or roadway between Blocks M and P. The proposed plans for Blocks M-P feature two largely separated structures, similar to the illustration mentioned above, but are composed as a single apartment complex that would share two levels of hidden joined podium parking and courtyard amenities spanning both blocks. As allowed by the State Subdivision Map Act, the applicant is proposing to merge the two lots on its Final Map such that the Final Map results in fewer lots than are shown on the Vesting Tentative Map (VTM).

Staff believes that the proposed lot merger would substantially conform to the applicant's currently approved VTM because the design remains consistent with the HWDMP and its form-based code requirements, including the 0-foot minimum side setback of the Village Neighborhood (T5-VN), which would allow buildings on Blocks M-P to be built directly against each other based on the precedent of the City previously approving the applicant's plans to build a single apartment complex across Blocks Q-R.

**Library:** Atop the podium of Blocks M-P, and accessible only from the shared private courtyard, a single-story library would be the only structural connection between the buildings on Blocks M-P to help conceal the retaining wall between the project and Bio Rad. There would be no direct passage from either building into the library.

As an alternative design option 1, the front wall of the library could be pulled forward into the courtyard so that interior corridors of the two buildings could be joined directly and the library could be accessed without having to go outside. Design alternative option 2 might not include the library building and install an outside water feature. Consideration of alternative design options is at the Planning Commission's discretion.

**Emergency Vehicle Access:** The HWDMP Street and Circulation Standards stipulate a rear access alley along the back (northeast) side of Block P, but does not show that alley extending along the backside of Block M, only that a 5' setback from property lines be provided. However, in coordination with the Fire District and to assist firefighters to more easily access

all the structures at Blocks M-P, a 20' wide asphalt alley is proposed to be extended along the full length of Blocks M-P. To complete the access route, a path of drivable vegetated porous pavement (Presto Geo Pave) would extend through the Neighborhood Park along Block M to connect the alley to a portion of the Bay Trail, which in turn would connect to the Paseo at Block M to return to Bayfront Loop at the Neighborhood Square. The rear alley would be 20-feet wide, plus a 5-foot-wide, ADA-compliant concrete sidewalk next to the buildings for fire egress as requested by the Contra Costa County Building Department.

The HWDMP places a strong emphasis on the pedestrian environment by ensuring a walkable scale of blocks. Unrestricted public access to the alley would promote such pedestrian connectivity. However, the applicant and the police department prefer for liability and security reasons that the alley be restricted to only emergency vehicles and residents of Blocks M-P due to the length of the alley, tall retaining walls, and lack of visibility. Therefore, a locking steel pedestrian gate with panic hardware on the inside of the EVA area would be installed to allow adequate fire egress for pedestrians from the EVA with a painted steel swing gate for vehicles, with Knox boxes to control access for emergency responders, proposed at each end of the alley to not allow general public access.

Page 3-16 of the HWDMP shows the Bay Trail as providing secondary fire access. By using this section of the Bay Trail with the Developer's property to accommodate a 26' wide EVA for the fire district outriggers, green space is maximized with a decrease in excessive hardscape. Easements will need to be recorded with the filing of the Final Map for Blocks M-P to establish EVA's on private property between Blocks R and P, the backside of blocks M-P, along the bayside of Block M and along a 26' portion of the Paseo between Block M and Block L. The City may also need to grant easements along the Bay trail for EVA and Park maintenance purposes as required by the City Engineer.

**Civic Spaces at Block M—Neighborhood Park, Paseo, & Neighborhood Square/Plaza Standards:** Though they will remain on private property, the HWDMP Civic Space Regulating Plan on page 3-1 shows a Neighborhood Park, Neighborhood Square, and Paseo being provided along Block M which should be covered by a public access easement to ensure unfettered public use of these spaces in perpetuity. The Neighborhood Square is defined by the rectilinear edges of the buildings (Block M and future phase Block L) and the tan concrete pavers to offset the surface from the grey sidewalks that lead to it. Around a planted area and a tall sculptural lighting feature, outdoor furniture and several curved seating walls would provide places to relax and enjoy views down the adjoining Paseo to the Bay. The Paseo would have two different surface types (brown cast-in-place concrete and tan concrete paver) and be lined on one side with raywood ash trees, seasonal grasses, and native shrubs, while keeping a 26-foot-wide path clear for pedestrians and emergency vehicles. The Paseo ends where it meets the 12-foot-wide asphalt Bay Trail. Parallel to the Bay Trail and fronting Block M would be an approximately one-third acre Neighborhood Park, as required by the HWDMP, with flat or gently sloping turf areas and a mix of river birch and valley oak trees to soften the transition from the park to the Block M apartments. Next to the Paseo, the required Neighborhood Park proposes to have a small tot lot consisting of wood play logs and wood steppers.

The three public spaces meet the quantitative standards called for in the HWDMP, including location and dimensions. Some qualitative issues the Planning Commission should consider:

- ***Design of Playground/Tot-lot , Neighborhood Park and Ancillary Structure Standards:*** As described in the HWDMP pages 3-15, 3-20 and 3-21, playgrounds are to be located throughout the neighborhood zones to provide quiet, safe open space designed and equipped for child recreation. The HWDMP says a larger, fenced playground with shaded area and seating should be provided in front of Block M. with shaded areas and seating. Additionally, the Plan shows ancillary structures at the end of the Paseo adjacent to the Bay trail. However, given the proximity of the neighborhood park to the Bay shoreline, staff and the applicant agree that a more open and natural, less intense play area is appropriate for this Neighborhood Park.
- ***Central plaza feature at the Neighborhood Square:*** The HWDMP page 3-12 describes features that should be included in the Neighborhood Square. The applicant proposes a special sculptural lighting structure to highlight the Neighborhood Square. Alternative features could be public art/statue, water feature, or other light feature.
- ***Paseo:*** The HWDMP page 3-13 describes standards within a paseo. The applicant proposes meandering softscape and hardscape, trees and landscape while providing adequate width EVA accessible surfacing.
- ***Absence of auxiliary structure*** (e.g., a pavilion, pergola, archway, kiosk) HWDMP page 3-21 shows an ancillary structure at the west end of the paseo. Staff feels a pavilion or pergola at that location could obstruct emergency vehicle access and partially obscure views of the Bay. However, a smaller installation such as a historical marker or wayfinding kiosk/sign at the edge of the park or paseo could be an unobtrusive but desirable feature.

**Architectural and Design Related Issues:** The project design meets the form-based code regulations. The project is thoughtfully laid out and takes advantage of the sloped site. Along John Muir Parkway, the Block O façade includes a ground floor up to 22 feet tall that accommodates a generous lobby and lounge entry to the apartments and ample amenity uses for residents. The street frontage and height of the private amenity spaces could invite their conversion over time to public commercial spaces. At the Bayfront Loop frontage, Block O has first-story ground units raised up from the street level, some with stoops, others with decks. Blocks M-P has amenity spaces with tall ceilings facing the street. Both buildings are divided into smaller vertical masses to break down the scale of the building walls. It is unclear where the entries are to some units, and the location of entries to all interior exterior residential units and amenity spaces need to be reflected on plan set.

Parking is behind the front façade and under the apartments, for both Block O and Block M and P and is well screened on all four sides. On top of the parking levels is a podium courtyard oriented to maximize sun exposure. Above the ground floor, the buildings have three to four floors of apartments, with five and six story high buildings at Block M and P. Some parts of all buildings have mezzanines at the top floor which do not count as additional “stories” under the Building Code. The façade of Block O along John Muir Parkway is in scale with the Block N project currently under construction across the street. This façade is broken into several “Bay

Area Eclectic” building types to make the street frontage look like it was developed over time, including some areas of steeply pitched roofs with gable ends; regular window patterns and bays with horizontal rhythm; shingle walls; and large exposed brackets at eaves.

Blocks M-P’s overall building elevations with building materials called out are located on pages A09 with detail sheet of the colors/material swatches are on page A10. Block O’s overall building elevations with building materials called out are located on pages and A29.1, A29.2 with detail sheet of the colors/material swatches are on page A30 of the plan set. Materials boards with color swatches for each of the project buildings should be available at the Planning Commission meeting.

Two areas that could use more attention and focus are the south facade of Block M along the Paseo, and the east façade of Block P along the Loop Road Extension facing Block R. Both of these facades face well landscaped public spaces, and there should be active frontages at the ground level. Currently the apartments on the first floor have doors onto long terraces that descend to the ground level at the ends. These could be improved by providing multiple stairs down to ground level in both locations.

**Aboveground Utility Structures:** It is difficult to see if any above ground utilities are visible from sheets C4.00 and C4.0 that would need to be screened or in vaults per City policy.

**Visitor Parking:** As previously noted, the amount of parking proposed significantly exceeds the minimum required by the HWDMP. Blocks M-P have a total of 401 parking spaces, 191 spaces above the 210 spaces required on-site; Block O offers a total of 151 spaces, 63 more than the 88 spaces required by HWDMP code. To encourage efficient use of parking, the HWDMP code stipulates that in no case may any of the spaces—including those in resident/employee-only areas—be individually assigned. However, key-controlled security gates will restrict access to most of the parking to residents and employees, with just 12% and 10% of total spaces, respectively, left available for guests at Blocks M-P and Block O. Use of parking for multiple types of users will remain uncertain until the City completes the formation of the Waterfront public-private parking district, the status of which was discussed in a prior section of this staff report.

**Potential for Conversion of Residential Amenities to Commercial Uses:** The ground-floor residential amenities at Blocks M-P and Block O can be accessed both by interior hallways and by doorways that open on to either John Muir Parkway or Bayfront Loop, however the doorways need to be recessed to not swing out onto the City right of way sidewalk. Exterior entries along Block O within the T5-MST district fronting John Muir Parkway need to be spaced at least every 50 feet, as required by the district so that conversion is possible, and it appears that a few additional entries will need to be added. Blocks M-P within the requirements of the T5-VN district should have 100’ maximum distance between entries, however it is uncertain when looking at pages A06.1 whether this requirement is met. This needs to be clarified in the plans as it is a requirement for potential conversion to live-work units over time. The space is appropriate for future commercial retail use as the Waterfront District evolves, depending on market demand for increased retail space. It appears that the parking proposed is adequate to meet the code should all amenity space be converted.. It may be appropriate to require the applicant to include in the leases notice to tenants of that the Developer has the right to modify and/or eliminate amenity spaces, so residents in the future are not surprised in the event any space is ever converted.



## 6. ENVIRONMENTAL DETERMINATION

Pursuant to Section 21166 of the California Environmental Quality Act (Pub. Res. Code §§21000 et seq.) and Section 15162 of the CEQA Guidelines (Cal. Code Reg. §§15000 et seq.), when an Environmental Impact Report (EIR) has been certified for a project, no subsequent EIR shall be prepared unless the lead agency determines that certain conditions are met. Pursuant to CEQA Guidelines Section 15164, an addendum to a previously-prepared EIR shall be prepared if none of the conditions in Section 15162 are met but minor changes to the EIR are necessary.

The proposed development is subject to the previously certified 2011 Hercules Bayfront Final Environmental Impact Report (EIR) (State Clearinghouse #2009112058), which established mitigation measures tied to the overall buildout of the entire Bayfront Project.

The proposed project implements a portion of the Approved Project that was analyzed in the 2011 Certified EIR. The proposed project would be located in the area identified as Blocks M, P, and O in the 2011 Certified EIR. The project site is subject to the Implementing Development Agreement for the Hercules Bayfront Project by and between the City of Hercules and Hercules Bayfront, LLC, dated March 14, 2012, which provides the project developer flexibility with respect to moving density within the Approved Project site, so long as overall development remains within the buildout evaluated in the 2011 Certified EIR.

As shown in the Cover Sheet page A00 of the design review package, a density summary table is provided for the entire Bayfront Plan Area showing approved, proposed, or conceptual land use mixes anticipated at the buildout of the project anticipated to date, including the proposed development of Blocks M-P, and O. The master plan allows for 1,392 non-flex residential units, 115,000 maximum non-flex office square footage, 90,000 maximum non-flex retail square footage plus 134,000 square feet maximum of flex space that can convert to 134 residential units. Based on the Maximum Development Program compared with the current Density Summary on page A00, the proposed project to date will not exceed the level of development analyzed in the 2011 Certified EIR. Therefore, the proposed project falls within the scope of the total program analyzed in the 2011 Certified EIR.

As detailed in Exhibit C to the draft resolution, the proposed project does not trigger any of the conditions in Section 15162, nor does it require an addendum pursuant to Section 15164. While the proposed project incrementally contributes to impacts previously identified in the 2011 Certified EIR, it does not require changes to that EIR. Additionally, there have not been changes in any circumstances that would require changes to the EIR, nor is new information of substantial importance now available that demonstrates that the proposed project will have new significant impacts, increase the severity of impacts previously identified, or otherwise cause environmental effects not previously examined. And since the proposed project does not involve any new or significant impacts, no additional mitigation measures are necessary. Finally, in its review and analysis of the proposed project, the City did not identify any additional mitigation measures that would substantially lessen any significant and unavoidable impacts previously identified in the 2011 Certified EIR. Therefore, no changes to the 2011 Certified EIR are required. Pursuant to CEQA Guidelines sections 15162 and 15164, no further CEQA documentation is necessary. However, since the project is relying on the 2011 Bayfront

certified Final EIR for environmental clearance, the Planning Commission will need to make findings of EIR conformity when considering approval of the design review permit.

The proposed project will implement all applicable mitigation measures from the Mitigation Monitoring and Reporting Program (“MMRP”) adopted with the 2011 Certified EIR. The applicable mitigation measures are identified in Exhibit A to the attached Resolution. The 2011 Bayfront EIR, including the Mitigation Monitoring and Reporting Program, is [available on the City’s website](#). The 2012 Implementing Development Agreement for the Hercules Bayfront project defines which mitigation measures are the responsibility of the Bayfront developer and which are the responsibility of the City.

**Traffic Analysis:** The applicant and their traffic consultant, Fehr & Peers, have provided several memos (See Attachment 2) assessing the transportation impacts of Blocks M–P and O to update and validate the traffic analysis prepared for the 2011 Bayfront EIR, and to determine if future projected traffic in the area will have site-specific impacts, including traffic queuing. An initial analysis was provided with the initial project submittal with further information provided recently regarding John Muir Parkway at San Pablo Avenue. An oral report will be provided at Monday’s Planning Commission meeting.

## **7. ACTIONS BEFORE PLANNING COMMISSION**

Under the approved Bayfront Development Agreement, each phase of the project requires Design Review approval subject to the discretion of the Planning Commission. The City of Hercules Zoning Ordinance (Chapter 42) defines the purpose of and types of projects subject to Design Review, which includes new construction and any substantial exterior alteration of any public or private building, and requires review and action by the Planning Commission, including consideration of specific required findings.

## **8. REQUIRED DESIGN REVIEW FINDINGS**

The project is required to demonstrate compliance and consistency with all applicable City requirements, including the General Plan, Zoning Ordinance, Hercules Waterfront District Master Plan, and the Bayfront Development Agreements. To approve a Design Review application, the decision-making body (in this case, the Planning Commission) must make a total of five specific findings as required by the Design Review chapter of the Zoning Ordinance (Section 13-42.500 of the Municipal Code) per the following titles:

- #1: Consistency with Applicable Zoning, General Plan, and any Specific Plans
- #2: Public Health, Safety and General Welfare
- #3: Site Characteristics Provide Desirable Development Environment
- #4 – Architectural Compatibility
- #5 – Landscape

Exhibit D of the draft Resolution 19-03 provides a full Facts and Findings needed to support the project.

## 9. ATTACHMENTS

1. Draft Resolution 19-03 approving Design Review Permit #19-01 with Project Specific Conditions of Approval
  - Exhibit A – Additional Conditions of Approval from Overall Bayfront Project
  - Exhibit B.1 – Bayfront Blocks M-P: Site Plans & Architecture
  - Exhibit B.2 – Bayfront Blocks M-P: Civil & Landscape Plans
  - Exhibit B.3 – Bayfront Block O: Site Plans & Architecture
  - Exhibit B.4 – Bayfront Block O: Civil & Landscape Plans
  - Exhibit B. 5 – Linus Pauling Sheets C-200 and C-201 for Blocks Q & R
  - Exhibit C – CEQA Conformity Findings to Certified Bayfront EIR
  - Exhibit D – Findings with Facts
2. Traffic Analysis Memos by Fehr and Peers
3. PlaceWorks 2-26-2019 memo based on prior design iteration