

**ATTACHMENT 1
RESOLUTION NO. 20-03
HILL TOWN PROJECT**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERCULES RECOMMENDING THE CITY COUNCIL APPROVE FINAL PLANNED DEVELOPMENT PERMIT #FPDP 19-01, VESTING TENTATIVE MAP #VTM 9533, CONDITIONAL USE PERMIT #CUP 19-01, AND DESIGN REVIEW PERMIT #DRP 19-02, SUBJECT TO CERTAIN CONDITIONS, FOR A MIXED USE COMMERCIAL AND RESIDENTIAL DEVELOPMENT COMMONLY REFERRED TO AS "HILL TOWN," CONSISTING OF 597 ATTACHED MULTI FAMILY RESIDENTIAL UNITS AND 4,200 SQUARE FEET OF NEIGHBORHOOD COMMERCIAL USES ON 44.2 ACRES LOCATED ADJACENT TO AND WEST OF INTERSTATE I-80, ADJACENT TO AND EAST OF SAN PABLO AVENUE, AND ADJACENT TO AND NORTH OF JOHN MUIR PARKWAY (EXISTING APN #404-040-064)

WHEREAS, the Planning Commission of the City of Hercules has considered the application by Santa Clara Valley Housing Group ("Applicant") for the Project known as Hill Town located on San Pablo Avenue; and

WHEREAS, the Project Site is comprised of one parcel of approximately 44 acres bearing Assessor parcel number (APN 404-040-064) which, along with a combination of right-of-way dedication and vacation, will result in a Project Site of approximately 46 acres; and

WHEREAS, the Project Site in its current state generally is vacant/undeveloped, although it contains utility improvements and telecommunications equipment; and

WHEREAS, the Project Site is currently zoned as PC-R Planned Commercial Residential district; and

WHEREAS, Chapter 48 of the Zoning Ordinance states that a development proposal of 10 acres or more in the PC-R Planned Commercial Residential district shall require an approved Planned Development Plan; and

WHEREAS, Chapter 48 of the Zoning Ordinance states that an Initial Planned Development Plan and Final Planned Development Plan are required for an approved Planned Development Plan; and

WHEREAS, the Applicant received approval of the Initial Planned Development Plan in 2007; and

WHEREAS, in 2007, the City Council approved an Initial Planned Development Plan (IPDP) for the Project Site which provided for the development of up to 640 residential units and up to 4,000 square feet of neighborhood commercial uses, and also approved a Development and Owner Participation Agreement for the Hill Town Redevelopment Project (DOPA 07-01) to,

among other things, vest the Applicant's right to develop the Project Site consistent with the approved IPDP; and

WHEREAS, in 2008, in accordance with the California Environmental Quality Act (CEQA) and its implementing regulations (the CEQA Guidelines), the City prepared and development of the Project Site consistent with the IPDP was evaluated in that certain Redevelopment Plan Final Environmental Impact Report (SCH#20018112049) certified by City Council in April 20, 2009 (the "Redevelopment Plan EIR"), which evaluated the potentially significant environmental effects from development of the Project Site consistent with the approved IPDP and described mitigation measures to minimize such effects; and

WHEREAS, the Applicant has now submitted the following applications for the proposed Hill Town Project, which collectively define the Project:

- Approval of a proposed road right-of-way vacation and abandonment totaling approximately 1.13 acres that is consistent with the General Plan; and
- Final Planned Development Plan #FPDP 19-01 and Design Review Permit DRP #19-02 for 597 residential units comprised of townhomes, courtyard homes, and multi-family podium style buildings; a 4,200 sq.ft. neighborhood commercial use; and associated common areas for parking, landscaping, active and passive areas, and pedestrian access.
- Vesting Tentative Map #9533 subdividing approximately 44.25 acres plus abandonment area into forty-seven (47) parcels plus (pending City Council approval of the roadway abandonment allowing for the incorporation of 1.13 acres of land in three separate areas of San Pablo Avenue and relocation of existing on-site utilities and easements);
- Conditional Use Permit #CUP 19-01 to allow a neighborhood retail use that exceeds 2,000 square feet in the PC-R Planned Commercial Residential zoning district, which proposed neighborhood retail use will total 4,200 square feet; and for an allowance of up to 10% of the building architectural appurtenances to be up to 25' taller than the 65' building height of the PC-R District; and

WHEREAS, on March 2, 2020, and on March 11, 2020, the Planning Commission conducted a duly-noticed public hearing on the Project applications and received oral and written comments from the general public, the Applicant, and interested parties; and

WHEREAS, the Staff Report with all Attachments, Exhibits, and hyperlinks for the March 2, 2020 and March 11, 2020, hearings, incorporated herein by this reference, described and analyzed the application for #FPDP 19-01, #DRP 19-02, #VTM 9533, and #CUP 19-01, and the request for approval of the right-of-way vacation and abandonment, and including the CEQA Initial Study and Addendum #IS 19-01; and

WHEREAS, the Planning Commission has thoroughly considered all the comments and materials presented at the March 2, 2020 public hearing and March 11, 2020 continued discussion, as well as all relevant materials in the City's file for the Project, before making its recommendations to the City Council on the requested Project approvals.

NOW, THEREFORE BE IT RESOLVED, that the Planning Commission hereby recommends that the City Council make the following findings and determinations regarding the Project applications described above and the Project **so long as the Revised Replacement pages depicted in Exhibit A.1 are integrated with the Exhibit A.2 Plan set along with the redlined pages attached hereto in Exhibit A.3 and Conditions of Approval contained in Revised Exhibit B attached hereto are incorporated (which shall be updated to be consistent to match these approvals):**

1. The foregoing recitals are true and correct and made a part of this resolution by reference.
2. After due study, deliberation, and public hearing, the Planning Commission hereby recommends that the City Council make the specific findings and determinations regarding the Project shown in the Findings of Facts attached hereto as Exhibit C, contingent upon the Applicant's adherence to and compliance with the Conditions of Approval attached hereto as Exhibit B, and recommends that the City Council approve the Project applications.
3. The Project proposal will not be detrimental to the health, safety, welfare, and public interest of the City.
4. The Project proposal is internally consistent and does not conflict with the purposes, regulations, and required findings of the Zoning Ordinance.
5. The Planning Commission finds that all elements, requirements, and conditions are a reasonable and appropriate manner of preserving, protecting, and providing for, and fostering the health, safety, and welfare of the citizenry in general and the persons who work or visit this development in particular.

BE IT FURTHER RESOLVED that the Planning Commission recommends that the City Council make the following findings and determinations regarding the proposed Final Planned Development Plan #FPDP 19-01 in accordance with Chapter 48 of the Zoning Ordinance, based on the Findings of Fact set forth in Exhibit C hereto **contingent upon the Applicant's adherence to and compliance with the Plan pages contained in Exhibits A.1, A.2, and A.3, Conditions of Approval attached hereto as Exhibit B, and recommends that the City Council approve the Project applications:**

1. The proposed use and densities are consistent with the General Plan.
2. The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic, and increased densities will not generate traffic in such amounts as to overload the street network outside the proposed project.
3. That the exceptions from standard ordinance requirements are warranted by the design and included in the approval of the FPDP 19-01 drawings in Exhibits A.1, A.2, and A.3.
4. The proposed utility services are adequate for development of proposed densities and will incorporate the improvement standards required by Vesting Tentative Map # VTM 9533.
5. The proposed Final Planned Development Plan #FPDP 19-01 is environmentally compatible as it is subject to Generally Applicable Mitigation Measures of the 2009 Redevelopment Update EIR, as amended by the Addendum #IS 2019-01, and the associated Mitigation Measures and Monitoring Program contained in Planning Commission Resolution 20-01.

6. The Planning Commission recommends that the City Council approve this Final Planned Development Plan #FPDP 19-01 for the Project Site known as Hill Town subject to the Conditions of Approval contained in Exhibit B contained herein.

BE IT FURTHER RESOLVED that the Planning Commission recommends that the City Council make the following findings and determinations regarding the proposed Design Review Permit #DRP 19-02 in accordance with Chapter 13-42 of the Zoning Ordinance, based on the Findings of Fact set forth in Exhibit C hereto **contingent upon the Applicant's adherence to and compliance with the Plan pages contained in Exhibits A.1, A.2, and A.3, Conditions of Approval attached hereto as Exhibit B, and recommends that the City Council approve the Project applications:**

1. The approval of the design review is in compliance with all provisions of the City of Hercules Municipal Code Zoning Section in Title 13 Chapter 42, Design Review, as well as other pertinent provisions of the Zoning Ordinance and applicable zoning and land use regulations, as it relates to approval of a Planned Development Plan, and including, but not limited to, the Hercules General Plan.
2. The approval of this plan is in the best interest of the public health, safety, and general welfare.
3. Site design, 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.
4. Architectural design, 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.
5. Landscape design, including the location, type, size, color, texture and coverage of plant materials at the time of planting and after five (5) year growth period, provision for irrigation, maintenance and protection of landscape 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.
6. The Planning Commission hereby recommends that the City Council approve Design Review Permit #DRP19-02 for the Project Site known as Hill Town subject to Conditions of Approval contained herein as Exhibit A.

BE IT FURTHER RESOLVED we determine the following regarding the proposed Conditional Use Permit #19-01 in accordance with Chapter 13-50 of the Zoning Ordinance, based on the Findings of Fact set forth in Exhibit C hereto **contingent upon the Applicant's adherence to and compliance with the Conditions of Approval attached hereto as Exhibit B, and recommends that the City Council approve the Project applications:**

1. That the proposed use of neighborhood commercial is consistent with the General Plan land use designation.

2. That the location of the proposed use conforms with the purposes of the zoning ordinance and the purposes of the district in which the site is located, and will comply with the applicable provisions of the Zoning Ordinance.
3. That the location, size, design and operating characteristics of the proposed use will be compatible in design, scale, coverage, and density with existing and anticipated uses.
4. There is adequate access, traffic, public utility, and public service capacity for the proposed use and surrounding existing and anticipated uses.
5. The building architectural appurtenances are a necessary component of the design.
6. The proposed project is within the scope of the development programs evaluated in the 2009 EIR, no new significant environment effects could occur as a result of the proposed project, no new mitigation measures are required for the proposed project, and the proposed project does not require further environmental review under CEQA.
7. The Planning Commission hereby recommends that the City Council approve Conditional Use Permit #19-01 for the Project Site known as Hill Town subject to the Conditions of Approval contained herein in Exhibit B.

BE IT FURTHER RESOLVED we determined the following regarding the proposed Vesting Tentative Map # VTM 9533 in accordance with Title 10, Chapter 2 (Subdivisions) of the Municipal Code, based on the Findings of Fact set forth in Exhibit C hereto **so long as adjustments to all VTM pages are made consistent with Revised pages C1.01 and C2.01 in Exhibit A.1 (near the roundabout intersection in the North Cluster) prior to City Council Hearings:**

1. Vesting Tentative Map # VTM 9533 is consistent with the General Plan.
2. Vesting Tentative Map # VTM 9533 is consistent with the PC-R Planned Commercial Residential Mixed-Use zoning of the property which allows neighborhood commercial uses.
3. Vesting Tentative Map # VTM 9533 is consistent with the intent of the applicable subdivision regulations and related ordinances in Title 10, Chapter 2 (Subdivisions) of the Municipal Code, except 10-2.606 Roadway Grades; 10-2.607 Curve Angles; 10-2.622 Block Length which is being addressed with privatization of the roadway, enforcement of speed by HOA, homeowners notification on emergency services, and required speed signage.
4. The design and improvements of Vesting Tentative Map # VTM 9533 are consistent as they relate to the Project Site;
5. Vesting Tentative Map # VTM 9533 is consistent with the Initial Planned Development Plan, and Development Agreement (DOPA 17-01) and therefore consistent with the Zoning Ordinance.
6. Project design, architecture, and concept are suitable for the Project Site created by Vesting Tentative Map # VTM 9533 and therefore the proposed subdivision is physically suitable for the type and intensity of development proposed with the proposed conditions of approval;
7. All Mitigation Measures and the Mitigation Monitoring program adopted with the Program EIR, and this subsequent Addendum pertaining to the 2009 Redevelopment Plan EIR and this Project applicable to the Hill Town site would be applicable as appropriate for addressing any potential environmental impacts identified with no new mitigation measures required;

8. Vesting Tentative Map # VTM 9533 will not result in environmental damage or substantially injure fish or wildlife or their habitat or cause public health concerns, with the mitigations and conditions implemented by Applicant;
9. The design of Vesting Tentative Map # VTM 9533 , will not conflict with easements or access through or use of property within the proposed subdivision; and
10. The Planning Commission hereby recommends that the City Council approve Vesting Tentative Map # VTM 9533 for the Project Site known as Hill Town subject to Conditions of Approval contained herein in Exhibit A.

The foregoing Resolution was duly and regularly adopted at a regular meeting of the Planning Commission of the City of Hercules held on the eleventh of March, 2020 by the following vote:

AYES: Tolley , Rubio, Morrison, Galieva
NOES: None
ABSTAIN: None
ABSENT: Sacramento


Chair Irina Galieva

ATTEST:


Holly Smyth, Planning Director

Exhibits:

- A.1 Revised Replacement Drawing pages incorporating 3/2/2020 PC Comments
- A.2 Hill Town Exhibits Site Plan, Architectural, Civil, Landscaping, & Supplemental (prior to replacing several slip sheets in from the revised set)
- A.3 Additional Redlined Plan Pages to be updated
- B. Hilltown Conditions of Approval
- C. Hilltown Findings with Facts

PC Resolution 20-03 : Exhibit B
HILLTOWN CONDITIONS OF APPROVAL FOR FINAL PLANNED
DEVELOPMENT PLAN #FPDP 19-01, Design Review Permit #DRP 19-02,
Conditional Use Permit #CUP 19-01, and Vesting Tentative Map #9533

LEGEND: Fire District (FD) Police Dept. (PD) Engineering (E)
 Planning (PL) Public Works (PW) Parks (PK)
 City Attorney (CA) Hercules Municipal Utility (HMU)
 Planning Commission (PC) WestCat (WC)
 Post Office (PO) Richmond Sanitary (RS) Building (B)

The Applicant shall comply with the following Conditions of Approval. Where a Condition refers to a building or property owner or other person or entity, the Applicant shall ensure that such other person or entity complies with such Condition. The Applicant may, in appropriate circumstances, assign responsibility for compliance with specific Conditions to a successor-in-interest (e.g., a residential or commercial property owners association or other successors-in-interest to property within the Project), but such assignment shall not relieve the Applicant of the obligations to the City as set forth herein without the express, written consent of the City Manager. The Applicant shall supply to the Planning Department written statements from each agency or department having primary responsibility for the implementation of each condition, indicating that, in the reasonable discretion of such agency or department, all applicable conditions required have been or will be met prior to issuance of building permits, installation of any improvements, or as otherwise indicated.

SPECIAL CONDITIONS

- 1. Redlined changes and/or modifications to #FPDP 19-01 drawings contained in Exhibit A attached to this Planning Commission Resolution #20-03 and/or listed below shall be made prior to submittal to City Council public hearing (unless noted otherwise) and also include all necessary changes for consistency throughout the design plans, subject to City staff review and approval except where noted otherwise below. Changes include:**
 - a. Updating all Vesting Tentative Map pages to incorporate the adjustments to the motor court entrances and building footprints near the round-about in the North Cluster of the project site [currently reflected in Revised page C1.01 and C2.01 (which contains 47 residential parcels, instead of 45, plus lots)].
 - b. Provide updated page L7 of the Landscape set to incorporate stone veneer for walls greater than 5' in highly visible areas and several potential hand-rail types which will be needed adjacent to sidewalks with more than 30" fall (this will update Exhibit A.3).
 - c. Page L3.0 shall be modified so that the wide stairway landing at top of pedestrian cut-thru in olive grove matches the width of stairway landing at the bottom of cut-thru when developing the construction plan set in coordination with the Planning Director.
 - d. Throughout the landscape plan cluster trees in various open space areas rather than evenly spacing (excluding the olive grove) and look towards sustainability in water usage in parkway strip landscaping, when developing the construction plan set in coordination with the Planning Director. (PL)

- e. Add Plan Page A3.5.5.1 to include an ADU option with kitchenette on the ground floor (Revision page is currently called out A3.5 which numbering should be changed to reflect this new number for better clarity) (BL).
 - f. Tower features shall all be modified to add interest at the top of tower by darkening tower inset or similar (on plan page A3.2.7.2T and A3.2.7.1T included in Exhibit A.3) to the satisfaction of the Planning Director when construction drawings are being submitted (No blank towers are approved) (PL).
 - g. The relocation of the cell tower site is not part of this project. The relocation shall be a separate application following Chapter 16, City of Hercules Municipal Code. (PL)
 - h. Exhibit A.3 shall not modify the colors on the side “1-Elevation” but will darken the upper floor tower inset color and remove coining detail on the “2-Perspective on page A3.2.7.2T.
 - i. Page A3.2.5.4 shall be modified to flatten the arches on the 3rd floor of the building.
2. Initial/Final Planned Development Plan #FPDP 19-01, Design Review Permit #DRP 19-02, Vesting Tentative Map #VTM 9533 and Conditional Use Permit #CUP 19-01 are contingent upon City Council approval of Partial Abandonment of San Pablo Avenue and CEQA Determination/Initial Study #IS 19-01.
 3. Approval of Vesting Tentative Map #VTM 9533 is contingent upon approval of #FPDP 19-01 with the above listed modifications listed in condition #1.
 4. Approval of Design Review Permit #DRP 19-02 is contingent upon approval of #FPDP 19-01 and #VTM 9533.
 5. Approval of Conditional Use Permit #CUP 19-01, which includes the allowance of up to 4,200 square feet of retail space and up to 10% of the ground area covered by structures containing towers, spires, cupolas, chimneys being a maximum of 90’ in height, is contingent upon approval of #FPDP 19-01 and #DRP 19-02.
 6. Applicant shall comply with all applicable conditions of approval for #FPDP 19-01, #VTM 9533, #DRP 19-02, and #CUP 19-01 contained herein. (PL)
 7. Developer shall comply with all of the Owner's obligations set forth in that certain Development and Owner Participation Agreement for Hill Town Redevelopment Project (DOPA 07-01), recorded in the Contra Costa County Recorder Office under Document No. DOC-2008-0256803-00 on November 25, 2008 (the “Development Agreement”), and all amendments thereto (including but not limited to those amendments approved by the City Council on May 8, 2018, January 8, 2019, and December 10, 2019), to the reasonable satisfaction of the City Manager. Developer hereby acknowledges and agrees that the requirements of this Condition No. 7 are intended to and shall survive the termination of the Development Agreement.
 8. The Project approvals described herein are approved for the Project and location described in the application, shown and described as the Hill Town Project, and shall not be transferable to other property. (PL)

9. Compliance with the Mitigation and Monitoring Report attached to the Planning Commission Resolution 20-01, which is based on the mitigation measures established in the 2009 Redevelopment Plan EIR and the 2019 Initial Study-Addendum and is incorporated herein by reference. (PL)
10. Compliance with all applicable Rodeo-Hercules Fire Prevention District and California 2019 Fire Code regulations including, but not limited to the regulations and requirements related to roadway widths, minimum distances to buildings for firefighting and life safety purposes, and accessible clearance for fire safety equipment. The project roadway widths and grades may be required to be re- designed or accommodated based on wider fire-fighting apparatus and the ability to perform ladder truck operations. (FD)
11. The Applicant shall provide bus facilities such as turnouts along San Pablo Avenue and “Dial-A-Ride” passenger pick-up areas within the Hill Town development; the number and locations for such facilities will be determined in cooperation with WestCAT. (WC)
12. The developer shall pay all applicable City fees in the amounts in effect at the time payment is due. If the City approves a Vesting Tentative Map for the project, the developer shall pay all applicable City fees in the amounts in effect on the date the application for the Vesting Tentative Subdivision Map is deemed complete. (CA)
13. A Homeowners Association (HOA) shall be established for the maintenance of landscape, lighting, roadway improvements (including retaining walls), storm drain lines and basins, park spaces, and for enforcement of vehicle speed limits on the property. A Property Responsibility Plan and Conditions, Covenants and Restrictions applicable to the property shall be prepared by the applicant and submitted to the City for review and approval. Said Plan will identify the responsibilities of the HOA, the individual homeowners, and the City of Hercules.. (PL)
14. Prior to submittal of the first building permit, the applicant shall provide for Building Official approval, Alternate Materials or Methods of Construction Design Request, CBC 2019, Section 1004.2.3.2 (Exception #4), together with supporting design criteria relative to third floor residential units. (B)
15. All street signs shall comply with City ordinance provisions establishing required pole heights, sign height, lettering, coloring, sign material and reflectivity. A subdivision entry sign shall be provided. The entry sign design, material, color, height, and lighting shall be approved by the Planning Director. (PL)
16. A Precise Fencing/Decorative Wall Plan shall be submitted prior to submitting grading or civil improvement plans describing and identifying openings in the wall/fence for residents to gain access to the development, solid walls for sound attenuation purposes, and pedestrian railings on top of retaining walls. The wall/fencing plan should be designed for the safety of the residents while being responsive to security along the perimeter of the subdivision restricting passage of people or animals onto San Pablo Avenue, State Route 4, or Interstate 80. Colors and materials shall match the primary residential buildings, to be approved by the Planning Director (PL)

17. Subject to the terms of any agreement that may entered into for the development of the project, the applicant and any future representative, developer, builder or landowner agrees to comply with, and contribute to the Transportation Facilities Impact Fee as a direct result from the development (PL)
18. Applicant to provide 5% of the total number of residential units by phase of construction as moderate income affordable housing. The unit types, size, and location within each phase shall vary. An Affordable Housing Plan shall be consistent with the DOPA. (PL).
19. In lieu of dedicating land on the Project Site for the construction of public park and recreation facilities, the Developer shall pay to City an in lieu recreation fee amount of \$5,000 per residential dwelling paid upon issuance of building permits for each residential unit within the Project consistent with the Development Agreement (BL).
20. The Final Planned Development Plan #FPDP 19-01 approval shall be valid for the length of time prescribed by Section 13-48.800 of the City of Hercules Municipal Code. (CA)
21. All conditions of Initial Planned Development Plan 07-01 shall continue to apply to Final Planned Development Plan 19-01, except as stated herein or as may be permitted by the Community Development Director in consultation with other affected departments. Completion of project improvements includes construction approved through building permits, construction of off-site improvements approved through public works permits, and construction or installation of site improvements (including paving, hardscape, and landscaping) as shown on the approved plans. In the event early occupancy is requested prior to project completion, the Applicant/Grantee shall provide to the satisfaction of the Community Development Director proof of substantial completion, safe occupancy, and security or agreement to assure full completion of the project. (PL)
22. The development or use by the Applicant/Grantee of any activity or structures authorized by these permits shall constitute acceptance of all of the conditions and obligations imposed by the City on these permits. The Applicant/Grantee by said acceptance waives any challenge as to the validity of these conditions. (CA)
23. The Applicant/Grantee agrees as a condition of approval of Initial/Final Planned Development Plan #FPDP 19-01, Design Review Permit #DRP 19-02, Vesting Tentative Map #VTM 9533 and Conditional Use Permit #CUP 19-01 (collectively, the "Permits") to hold harmless and to defend, at the sole expense of Applicant/Grantee, any action brought against the City based upon approval or use of these Permits. The Applicant/Grantee shall indemnify and reimburse the City for any judgment for damages, court costs, and attorneys' fees that the City may be required to pay as a result of any such action. The City may, at its sole discretion, participate in the defense of any such action, but such participation shall not relieve permittee of the obligations under this condition. Commencement of construction or operations under these Permits shall be deemed to be acceptance by Applicant/Grantee of all conditions of these Permits. (CA)

24. The Applicant/Grantee shall obtain a permit from the Rodeo-Hercules Fire District for the handling, storage, and use of all materials classified as flammable, combustible, radioactive, carcinogenic, or otherwise potentially hazardous to human health. (FD/FD)
25. Any covenants, conditions, and restrictions (CC&Rs) applicable to the subject property shall be approved by the City Attorney and be consistent with the terms of this permit and the Hercules City Code and the Central Hercules Plan Regulating Code. Where a conflict exists between the CC&Rs and the City regulations, the City regulations shall prevail. (CA)
26. A building permit shall be secured for any new construction or modifications to structure, including interior modifications, authorized by this permit. (B)
27. Burning of combustible refuse or other flammable materials on the property is prohibited. (FD)
28. The location and elevations of all buildings and structures shall conform to the Final Planned Development Plan #FPDP 19-01 as approved by the Planning Commission and City Council. (PL)
29. The final building plans submitted with the building permit application shall match the plans and material board approved for the Project. The Planning Director shall conduct an in-field inspection to confirm and approve the materials and colors for consistency with the approving body's intent. The Planning Director has authority to process minor modifications to materials and color under Hercules Municipal Code Section 13-46 (which requires administrative notification to a 300' radius as well as City Council with all applicable appeals apply) so long as the changes "do not substantially alter the design theme of the building". The Planning Director has authority to refer this decision back to the Planning Commission if not consistent with or similar to the approved plans and material board. (PL/B)
30. The Applicant shall provide to the Engineering Division, prior to the issuance of building permits, a 100-foot scale site plan in both paper and digital form (to NAD 83 standards preferable/MicroStation SE) of the project as approved for the purposes of updating the City base maps. (PW/E)
31. Graffiti applied to any surface of the subject property shall be removed within twenty-four (24) 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 24 hours; the Applicant/Developer shall reimburse the City for the graffiti-removal work.
32. Consistent with the PC-R Zoning the conditional use permit granted under this application is for retail uses of up to 4,200 square feet, subject to a business license or licenses. No conditional uses are approved under this application.

33. Submit with the Building Permit for Planning Director approval the site-wide lighting plan. With the lighting plan include light fixture location on site plan, and manufacturer name, specification sheet on fixture type, color, and lumen's per foot-candle.
34. Submit with the Grading Permit for City Engineer approval in collaboration with the Fire District on a site-wide sign plan. Using the minimum submittal requirements from the Sign Code, submit a master sign plan comparable with approved architecture.
35. Submit final Landscaping Plan with building construction drawings for Planning Director approval. The plans shall include the low water use irrigation plan and monitoring requirements, tree and plant name, size, and location in conformity with the State Water Efficient Landscape of Choice. Size of podium courtyard large specimen tree shall be identified and approved by Planning Director. Imagery shown on approved plans L8, and L9 shall be identified in plans. Right-of-way landscaping plans shall be shown and part of Phase 1 construction, street trees shall follow the type in the Sycamore Crossing.
36. The maximum building 'height' approved for this site is 65' from final grade consistent with Hercules Municipal Code Title 13, Chapter 60 - Definition of height which means "a vertical dimension measured from the average elevation of the surface of the ground covered by the structure to the highest point of the structure" and consistent with Section 13-30.520 where height exceptions are granted for mechanical and architectural appurtenances covering not more 10 percent of the ground area covered by the structure, and not more than 25 feet above the 65' height limit. The current building designs at scale guide the expected maximum height of these appurtenances (PL).
37. The Applicant shall include on-street parking near Plan 6 & 9: 2-3 bedroom units with one-car garages.
38. The Applicant must provide a letter from the Republic Services indicating collection services can be met or site/building changes are required.

STANDARD PUBLIC WORKS CONDITIONS

39. Subject to any agreement between the parties regarding the development of the property, the Applicant shall pay plan check and processing fees, development fees, encroachment permit fees, and other miscellaneous fees applicable per current City resolutions, ordinances and codes in effect as of the date the Vesting Tentative Subdivision Map is deemed complete.
40. The Applicant shall submit a grading permit application for approval by the City Engineer prepared by a registered civil engineer who incorporates into the grading plan all recommendations from soil engineering and engineering geology reports. The grading plan will be reviewed and approved by Public Works prior to issuance of the building permit. Building pad elevation and landscaping mounds shall be shown on the grading plan.

41. The Applicant shall submit adequate drainage calculations and hydraulic design to insure that upstream areas and site will drain to a safe point of discharge.
42. The Applicant shall coordinate with Public Works and arrange a pre-construction conference at least 48 hours prior to the proposed construction to discuss the scope and extent of removal and replacement of any existing broken curb, gutter, sidewalk or asphalt paving (patch, repair and/or overlay), and construction of access ramp for the physically handicapped adjacent to the project site.
43. The Applicant shall remove and replace all improvements damaged during construction adjacent to the project site as directed by the Public Works Inspector.
44. The Applicant shall make arrangements with the Public Works Inspector to inspect and test any existing sewer and water service laterals to be used, prior to connection, and shall make necessary repairs as determined by the Inspector.
45. Curb cut widths and design shall conform to the City Code and current Public Works standards as approved by the Planning Commission through the Vesting Tentative Subdivision Map and the Central Hercules Plan Regulating Code as adopted and amended by the City Council.
46. The Applicant shall submit an on-site sewer plan (profile not required except when conflicting with other utility lines) where existing lateral is larger than four inches in diameter.
47. The Applicant shall submit on-site water plans where a separate loop or terminal line is required for fire hydrants and/or sprinkler systems. All improvements plans, construction cost estimates, soil reports, geology reports, and all pertinent engineering design calculations shall be submitted simultaneously.
48. The Applicant shall construct all streets, curbs, gutters, sidewalks, street lights, parkway and associated improvements per the City of Hercules Standard Drawings Book subject to any agreement between the parties regarding the development of the property, future Vesting Tentative Subdivision Map, or subdivision map.
49. On-site and off-site utility service shall be installed underground in accordance with the City Code. Utilities shall be undergrounded to the nearest suitable riser pole as determined by the appropriate utility company. The Applicant shall post a bond or other surety approved by the City guaranteeing the undergrounding.
50. An Encroachment Permit shall be obtained for equipment driving over City property and over public easements. A cash deposit shall be required to secure the repair of any damages and said deposit may be increased at the discretion of the City Engineer, as necessary.
51. All construction material/equipment shall be placed outside the City's rights-of-way.

52. Final Grading and Drainage Plans shall be designed to eliminate drainage from flowing across property lines.
53. Subject to any agreement between the parties regarding the development of the property the Applicant is advised that City Ordinance requires payment of sewer connection and facility fees prior to issuance of a construction permit for any residential building.
54. Prior to the scheduling of Final Maps consideration by the City, the Applicant shall complete a Consent to Formation of Landscape and Lighting Maintenance District form, Maintenance Assessment District or other maintenance district as applicable, and submit it to the Public Works Director. By this action, the Applicant consents to the establishment of a maintenance district to assess properties in the subdivision for maintaining public rights-of-way commensurate with the benefit to such properties.
55. A Landscape and Lighting Maintenance District Master Plan, or plan for other maintenance district as applicable, shall be drawn at an approved scale and provided to the Public Works Division for review and approval. The plan shall clearly designate areas of maintenance responsibility boundaries relative to: (1) the Maintenance District; (2) Property Owners or Homeowners Association, if one is formed; (3) Private Areas and/or (4) City Maintenance Responsibilities. Once the master plan has been approved, a mylar (minimum 3 mil) original drawing shall be provided to Public Works Division and shall become the City's record Drawing of the Maintenance District Area Improvements.
56. After irrigation and landscape installation but before final acceptance of the Landscape Maintenance District Improvements by the City, the Public Works Division shall be provided with one set of mylar (minimum 3 mil) original drawings. The Landscape Maintenance District Improvement drawings shall accurately reflect all "As Built" conditions and shall become the City's record drawings of the Landscape Maintenance District Area Improvements.

ENGINEERING CONDITIONS

57. **Public Works Standards:** Applicant/Developer shall comply with all applicable City of Hercules Public Works Standards. In the event of a conflict between the Public Works Standards and these Conditions, these Conditions shall prevail. In the event that the clarifications to the conditions of approval are required, the Public Works Director or the Planning Director, as applicable, shall have the authority to clarify the intent of the conditions without requiring a public hearing.
58. **Final Geotechnical Report:** Applicant/Developer shall retain a licensed Geotechnical Engineer to prepare a final Geotechnical Investigation Report for the site. The design of the underground utilities, grading, paving, retaining walls, and foundations shall be based on the recommendations outlined in said Report. The Geotechnical Engineer shall certify that the design conforms to the recommendations in the Report before the City issues a Grading/Site Development Permit. Applicant/Developer shall pave all roads in accordance with the Geotechnical Engineer's recommendations, based on the traffic index provided by the City's Traffic Engineer. Pavement sections shall be approved by the City Engineer or their designee in his or her reasonable discretion.

59. **Work Hours:** All contractors shall observe City construction work hours (including all deliveries of materials and maintenance of equipment), unless prior arrangements are approved by the City. Hours of construction shall be from 7:00 a.m. to 5:00 p.m., Monday through Friday. No work shall be permitted on weekends or holidays except with prior consent of the City Engineer. Work hours for construction activities that occur completely within an enclosed structure are allowed to begin at 7:00 am and end at 8:00 pm on weekdays, and from 8:00 am to 5:00 pm on weekends.
60. **Title Report:** A current title report shall be submitted with any application for grading or building permits to verify current ownership and any existing easements or land use restrictions.
61. **Street Repair:** Should the developer cut into the newly constructed or rehabilitated City streets, the Developer shall restore such streets to their condition prior to the developer's 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.
62. **Public Improvements on San Pablo Avenue: Applicant/Developer shall improve the public right-of-way on San Pablo Avenue along the project frontage to accommodate frontage and median improvements at their cost. Said improvements shall conform to the following requirements:**
- a. Applicant shall repair or replace all improvements to the extent damaged by its construction activities along the San Pablo Avenue project frontage, within the public right-of-way, including curb, gutter, sidewalks, paving and utilities to the reasonable satisfaction of the Director of Public Works during construction activities. Any improvements constructed within the public right-of-way shall be constructed in accordance with project approvals, the City's approved standards and/or approved construction civil plans and may be constructed only after an encroachment permit has been issued by the City. Applicant/Developer is responsible for third party damage that is directly attributable to their construction activities.
 - b. San Pablo Avenue shall grind and overlay up to the street centerline for the length of project frontage. All existing striping shall be replaced.
 - c. The pavement structural section for the widened street shall match the existing section, or shall be designed based on appropriate Traffic Index (TI) and Soil Resistance (R) values. The new asphalt concrete shall be keyed to the existing using a conform detail acceptable to the City.
 - d. The public sidewalk along the frontage shall be consistent with project approvals. Said sidewalk, curb and gutter shall be constructed in accordance with City Standards. Existing asphalt concrete pavement shall be removed and replaced as necessary to accommodate frontage improvements. New asphalt concrete pavement installed to conform to existing pavement to remain shall have a minimum width of two (2) feet.
 - e. All curb ramps shall be ADA-compliant.
 - f. Appropriate signs and pavement markings shall be provided within each left-turn pocket on San Pablo Avenue as approved by the Director of Public Works.
 - g. The existing medians and striping along San Pablo Avenue shall be modified as reasonably required by the City Engineer to substantially conform to the new median improvements, and incorporate trees and landscaping throughout the median.

- h. Applicant shall install two new crosswalks at the intersection of San Pablo Avenue and John Muir Pkwy. One across San Pablo Avenue and the other, across John Muir Pkwy. Crosswalk improvements shall include traffic signal improvements, new ADA ramps and all other improvements associated with installation of crosswalks. Caltrans approval and encroachment permit is required for improvements.
 - i. All off site construction along San Pablo Ave and John Muir Pkwy shall be completed with Phase 1.
- 63. **Traffic Signals:** Applicant/Developer shall install one traffic signal on San Pablo Avenue at Linus Pauling Drive in accordance with project approvals prior to the first certificate of occupancy. Traffic signal improvements shall include traffic controllers, traffic signal poles, detector loops, signs, lighting, opticom devices and pavement markings and appropriate adjustments to the raised center median. Pedestrian countdown signals shall be installed at all new traffic signals. Internally illuminated hanging street signage shall be incorporated into each signal. The applicant shall be responsible for all costs associated with the design and construction of the traffic signals.
- 64. **Private Roads and Sidewalks:** All internal roads shall be privately owned and maintained. Applicant/Developer and/or its successor owners shall be responsible for the maintenance of roadways, sidewalks, curb ramps, and crosswalks in accordance with California Streets and Highways Code Section 5600.
- 65. **Access Easements:** Applicant/Developer shall irrevocably dedicate appropriate access easements for any roads, sidewalks, access ramps, and crosswalks outside of the existing public right-of-way in order to provide continuous and unobstructed public access.
- 66. **Disabled Access Requirements:** An accessible pedestrian route shall be provided from each commercial building entrance to the public access easement within the privately-owned roads, and from each commercial building entrance to 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.
- 67. **Fiber Conduit:** Applicant/Developer shall install interconnected conduit within the joint trench to support future fiber optic service.
- 68. **Lighting:** Prior to the issuance of a building permit, the Developer/Applicant shall obtain the approval of the Public Works Director of a photometric lighting plan which demonstrates that all exterior areas of the site will have a lighting level in accordance with California Code of Regulation and Title 24 (generally less than .01 foot candle light spill at 15' beyond the property line). Lighting in landscaped areas throughout the project shall also be subject to reasonable review and approval of City's Landscape Architect, Planning, and Public Works Departments, in consideration of IES standards for lighting in public/community areas. The Applicant/Developer shall meet a performance standard of no increase in lighting spillover into adjacent "light-sensitive" areas (Central Hercules Plan) as reasonably approved by the Planning Director.

69. **Street Lighting:** Applicant/Developer shall install required street lights within the City's right-of-way along San Pablo Avenue and on the private streets, to the satisfaction of the Public Works Director.
70. **Phasing:** Project construction shall be performed in accordance with the approved phasing plan.
71. **Water and Sewer:** Applicant/Developer shall construct all fire hydrants, water lines, and sewer lines needed to serve the project to the satisfaction of EBMUD and the Rodeo/Hercules Fire Protection District, City of Hercules, and Pinole-Hercules Treatment Plant. Water and sewer mains shall be located within the private roads and public utility easements. The maintenance of all sewer within the private driveways or motor courts shall be the responsibility of the Applicant/Owner or its successor owners.
72. **Storm Drainage:** Applicant/Developer shall be subject to project approvals and regulatory agency permitting requirements. The design of the storm drain system shall be consistent with the City standards, as evidenced by the preparation and submittal of hydrologic/hydraulic calculations prepared by a registered Civil Engineer. Drainage shall be designed in accordance with City standards and shall meet all requirements of the Regional Water Quality Control Board. Storm drain maintenance shall be the responsibility of the Applicant/Developer or its successor owners. The existing 36" storm drain line shall be evaluated by the applicant as to build-out capacity and shall be updated and replaced as necessary, paying their fair-share.
73. **Cell Tower Relocation:** The relocation of the cell tower site is not part of this project. The relocation shall be a separate application following Chapter 16, City of Hercules Municipal Code..
74. **Signing and Striping Plan:** A signage and striping plan shall be submitted to the Public Works Department for review and approval with the building construction plans. All striping within public or private roads shall be thermoplastic.
75. **Speed Limit:** All interior private roads shall be posted at 15 miles per hour and designed for no more than 15 miles per hour. Applicant/Developer and its successor owners shall install extensive traffic-calming devices consistent with a 15 miles per hour speed limit to the satisfaction of the City Engineer subject to Fire Department approval. Applicant/Developer and its successor owners shall provide for enforcement of vehicle speed limits to the satisfaction of the City Engineer/Public Works Director and Police Chief. Speed limit and enforcement requirements shall be specified in the HOA Conditions, Covenants, and Restrictions as required pursuant to Condition #13.
76. **Sight Distance:** Applicant/Developer and its successor owners shall maintain landscaping at intersections in accordance with the City Standards. Shrubs shall be less than 30 inches and tree canopies shall be a minimum of six feet from the ground. No parking is allowed within designated sight clearance areas.

77. **Retaining Walls:** All retaining walls shall be constructed of aesthetically pleasing concrete, masonry block, or other City-approved durable material, as approved by the Planning Department. Structural calculations for any retaining walls shall be submitted to the County Building Department and depending on size may require separate building permit review and approval, as determined by the City Engineer. Retaining Walls constructed of wood shall not be permitted. Maintenance of said walls shall be the responsibility of the Owner/Developer/Applicant. Guardrails shall be installed where required for ADA compliance. Retaining Walls supporting private roads shall be inspected and maintained regularly at the responsibility of the Applicant/Developer or its successor owners.
78. **Erosion Control:** An Erosion Control Plan shall be required if any work is to occur during the rainy season (i.e., between October 1 and April 15). If required, the erosion control plans shall be included in the Stormwater Pollution Prevention Plan (SWPPP) required for any grading permit or activity that may take place at the site. The Developer/Applicant shall install erosion control measures in all areas of the site during construction between October 1 and April 15 to the reasonable satisfaction of the Director of Public Works. A plan for erosion control shall be prepared and submitted for approval by the Public Works Director. All erosion control measures shall be in accordance with the latest Regional Water Quality Control Board Manual of Sediment Control standards in effect at time of permit submittal.
79. **Joint Utility Trench:** Applicant/Developer shall construct all utility trenches (such as electric, telephone, cable TV, conduit for fiber, and gas) in accordance with the applicable utility jurisdiction standards. All communication vaults, electric transformers, cable TV boxes, blow-off valves, and any appurtenant utility items thereto adjacent to any public right-of-way shall be undergrounded. Notwithstanding the foregoing, communication vaults, electric transformers, cable TV boxes, blow-off valves, and any appurtenant utility items thereto not adjacent to any public right-of-way are not required to be undergrounded. Utility plans, showing locations of all proposed utilities (including electrical vaults and underground transformers) shall be reviewed and approved by the Director of Public Works in his or her reasonable discretion concurrent with the approval of the grading plans. Location of these items shall also be shown on the Final Landscaping and Irrigation Plan and Site Plan for the Project construction and placed to reduce their visual impact.
80. **Post-Construction Stormwater Management:** Post-construction storm water quality controls shall be installed as part of this project. These controls will be reviewed and approved as part of the civil plan review process. A maintenance and inspection plan for the storm water treatment facilities shall be submitted with the plans and will be reviewed prior to permit approval. The developer shall enter into a Stormwater Operations and Maintenance Agreement with the City for the post-construction storm water quality control system.
81. Intersection south of the roundabout shall be moved to provide adequate stopping sight distance for 15 mph to the satisfaction of the City Engineer.

82. Applicant shall provide adequate intersection clearance in accordance with RW-3.1. Retaining walls and guardrails shall demonstrate clear visibility within the sight distance triangle
83. No cars shall be placed within sight distance triangle in accordance with RW-3.1.
84. Applicant shall provide a meandering sidewalk along the San Pablo Avenue frontage to the satisfaction of the City Engineer.
85. Developer shall indemnify, defend, and hold harmless City, its City Council, officials, officers, agents, employees, and volunteers from and against any and all liability, loss, damage, claims, expenses and costs (including, without limitation, attorney fees and costs and fees of litigation) (collectively, “**Liability**”) of every nature which arises out of the 15 mph speed limit on the private streets within the Hilltown Project.

STATE REQUIREMENTS

86. The project shall be required to comply with all Mitigation Measures resulting from the Environmental Impact Report and the Addendum. (PL)
87. The Applicant must provide a letter from the Federal Emergency Management Agency (FEMA) indicating that the site has been removed from the Flood Insurance Rate Map and Flood Boundary and Floodway Map. The letter would be obtained by showing that all building sites have a finished grade above the 100-year flood level. The applicant or its successor will be required to secure the revised FEMA issued Flood Insurance rate Final Map Revision from FEMA through the imposition of conditions of approval of any development request on the 44-acre project site.
88. The applicant shall provide a letter from the State Water Resources Control Board referring to plans C1.04 Site Plan, C2.01 Parcel Overview, C3.03 and C3.06 Grading & Drainage Plans, C3.07 Wetland Delineation indicating no concern or conditions of 1) parcelization of wetland, 2) placement of adjacent bioretention filter, 3) placement of spillway.
89. The applicant shall provide a letter from Cal Trans referring to plans C3.03 and proposed bioretention filter, spillway and two drainage to State of California property 2952 or 116.

POLICE DEPARTMENT CONDITIONS

90. Provide clearly marked and lighted address numbering on front of units and on both front and rear of units having rear alley access; rear addressing shall include street name.
91. Show the location of mail receptacles, all of which are required to be locking.
92. An agreement is required between the HOA and Police Department to provide safety patrol and vehicle code review of the subdivision.

FIRE DEPARTMENT CONDITIONS

93. Sprinklers are required in all structures in accordance with CA Fire Code Chapter 9 as adopted by the Fire District CFC 903.
94. Smoke detectors shall be interconnected.
95. The applicant and/or his representatives, or future builders shall comply with all applicable conditions from the Rodeo-Hercules Fire-Protection District, including that minimum fire flow and flow duration requirements for one and multi-family dwellings as well as commercial structures. 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 will not be estimated for the current design.*** 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. CFC 507.
96. 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.
97. 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. All units shall have illuminated address numbers.
98. Submit with the Grading Plan a site-wide sign and address plan in coordination with the Fire Department, and Planning Department.
99. The Fire District will be requesting this developer to mitigate the impact of this development as an offset to the demand this development is creating.
100. A bi-directional public safety emergency responder radio system, designed and installed per current Fire Department standards, is required in all new commercial structures. System can be building specific or a campus-wide system can be provided. CFC 510
101. There shall be water available on-site prior to any combustible materials on-site and first lift of asphalt shall be in place.

BUILDING DIVISION CONDITIONS

102. The applicant shall comply with any and all Uniform Code requirements adopted by the City of Hercules City Council at the time of approval.
103. The applicant shall provide egress from the third floor which complies with the Building Code adopted by the City of Hercules City Council at the time of application.
104. The applicant shall comply with all accessibility requirements for individual units (multifamily requirements) and site work.

105. The applicant shall comply with City of Hercules hours of construction as adopted.
106. The applicant shall provide debris boxes during all phases of construction.
107. The applicant shall provide for dust control.
108. The applicant shall temporarily identify all buildings during construction.
109. Mitigation Measure Bio-1a requires 25' building setback, show setback line on drawings to ensure compliance.
110. Address numbers shall be illuminated and clearly identifiable.
111. Applicant shall provide an entry directory to building locations.
112. Integrate into Project the CEQA Mitigations (e.g., Air Quality MM AQ-3) mechanical systems in buildings.
113. Construction Activities;
 - a. The Applicant shall submit with the grading and clearing permit, or first action on the site, a construction schedule including **CEQA** Mitigation and Monitoring, phasing of all aspects of construction, and ongoing city/county staff – construction manager meetings. The CEQA consultant shall be hired to conduct coordination and implementation of the CEQA Mitigation and Monitoring program on behalf of City of Hercules staff. Removal of Mature Trees, as defined by Municipal Code Chapter 15, shall be included in grading or clearing plans.
 - b. Site Improvements: The first Phase of Site Improvement work (e.g., mass grading, installation of underground utilities, and street paving) shall commence within 6 months after approval of Final Maps) and Site Improvement Plans, provided Developer in its sole discretion, determines that such work is feasible given market conditions at that time.
 - c. Residential Construction: The first Phase of Residential Construction shall commence within 12 months after approval of Final Maps) and Site Improvement Plan, provided Developer, in its sole discretion, determines that such work is feasible given market conditions at that time.

EXHIBIT C
REVISED FINDINGS WITH FACTS
HILL TOWN PROJECT

I. FINAL PLANNED DEVELOPMENT PLAN NO. 19-01

Section 48.600 of the Zoning Code requires the following findings with facts to be made in order to approve Planned Development Plans:

FINDING NO. 1: The proposed use and densities are consistent with the General Plan.

FACTS: The General Plan Land Use designation of PC-R Planned Commercial Residential to provide both either residential or commercial or residential and commercial uses with a residential density not to exceed 30 units per acre (approximately up to 85 persons per acre with a non-residential FAR floor area ratio in the range from 0.20 to 0.40 with a typical FAR of 0.30. The proposed use is consistent with the residential commercial mixed use. The residential density of 13.09 dwelling units per gross acres is below the maximum, and consistent. The commercial FAR of 0.06 is below the maximum, and consistent.

FINDING NO. 2: The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic, and increased densities will not generate traffic in such amounts as to overload the street network outside the planned development.

FACTS: The private roadway design include a loop road designed for 26' to 36' wide street, that includes a minimum of two travel lanes of 13' each (1 in each direction) and optional 8' wide parking on one or both sides with a parkway strip and 5' sidewalks adjacent to the road on both sides of the street as shown on Revised page C1.01 of the Plan Set. A condition of approval requires each intersection meet the minimum turning radius site distance for public safety. In addition, all roadways will be limited to a maximum 15-miles per hour and signage will inform drivers thru-out the subdivision, and the Homeowners Association will monitor and enforce this requirement. A Transportation Impact Analysis was completed on the Project. No new or substantially more severe impacts related to traffic or circulation impacts were identified. A number of mitigations were identified which continue to be applicable, including the installation of a new traffic signal at San Pablo Avenue/Linus Pauling. Consistent with Sec. 10-2.106, and 10-2.309, the Director of Public Works has determined that the subdivision, and improvements are consistent with the subdivision regulations of the municipal code. In the case, of the roadway width, horizontal curve radius, and site distance the city's transportation engineer DKS conducted an analysis dated February 27, 2020 and has made specific safety recommendations. It was recommended that the lowest recommended speed limit of 15 mph and appropriate signage and traffic calming measures be required in coordination with the Fire District. The Director of Public Works provided in the March 5, 2020 memo Statement of Findings and Recommendations approval.

FINDING NO. 3: The exceptions from standard ordinance requirements are warranted by the design and amenities incorporated in the final planned development plan and approved through the minor exception process (and confirmed through the variance approval process).

FACTS: The Hill Town Project is inconsistent with the City Roadway Standards of 36' curb-to-curb by 2'. Consistent with Sec. 10-2.106 and 10-2.106 and 10-2.309, the Director of Public Works has determined the subdivision, and improvements are consistent with the subdivision regulation, subject to the conditions of approval. Based upon the Public Works Director memo of March 5, 2020 that the design is in keeping with the intent of the subdivision ordinance and with good engineering practice. The trade-off of maximizing the number of residential units combined with the safety measures described in Finding No. 2 warrants this exception from the standards. The Project street design is generally consistent with the approved IPDP that is the subject of the Owner Participation and Development Agreement (DOPA #7-01). The Hill Town Project Podium buildings are inconsistent with the PC-R Zoning maximum height of 65' approved thru the IPDP, proposing a building of 81'-6" or 16'-6" above the maximum. Section 13-30.520 Height Limit Exception enables up to an additional 25' above this limit for towers, spires, cupolas, chimneys, flagpoles, and similar structures and necessary mechanical appurtenances, subject to design review, and use permit in each case. The Project as designed is consistent with the IPDP, and CEQA determined the increased height did not constitute a significant impact that was not adequately addressed in the EIR for the original project.

FINDING NO. 4: The area surrounding the project site can be planned and zoned in coordination and substantial compatibility with the proposed development.

FACTS: The Project is consistent with the General Plan Land Use designation of PC-R Planned Commercial Residential. The following land use, zoning, and improvements of surrounding properties. The proposed use is consistent with these adjacent uses.

	<u>Existing Land Use</u>	<u>General Plan Land Use Designation</u>	<u>Zone</u>
North	a. Victoria By the Bay single family homes	Residential	Residential
South	a. BART Park and Ride	Commercial-Public	Commercial-Public
	b. John Muir Parkway		
East	a. Interstate 80		
West	a. North Shore Business Park	Planned Office-Research & Development	Planned Office-Research & Development
	b. San Pablo Avenue		

FINDING NO. 5: The proposed utility services are adequate for the development densities proposed.

FACTS: The preliminary title report dated April 30, 2019, includes the following existing public and private easements: a) an utility easement in favor of PG&E; b) an utility easement in favor of EBMUD, c) a sanitary sewer easement in favor of the City does not exist, but is required, d) an access and utility easement in favor of Crown Castle Towers for access to the antennae, and e) a storm drain easement in favor of the City, f) an easement for pipelines in favor of Union Oil Company, g) a pipeline easement for San Pablo Bay Pipeline Company. In order to accommodate the construction of the proposed project, all the above existing easements will need to be quitclaimed or abandoned and relocated to the edges of the property and relevant fees paid. The EIR for the approved IPDP determined that available utility services were adequate to serve the development described in the IPDP, and the proposed FPDP will impose less demands on utility service providers than the approved IPDP. Therefore, utility services are adequate for the development densities proposed.

II. VESTING TENTATIVE MAP NO. TSM 19-01

Section 10-2.309(b) -Department Recommendation Section of the Hercules Municipal Code requires the Director of Public Works to present a written statement of his findings and recommendations regarding the proposed improvements for the subdivision. He shall determine if the proposed improvements are in accordance with the city's requirements and in the case of a variation request determine if the proposed variation is in keeping with the intent of the subdivision ordinance and with good engineering practice.....prior to consideration of the tentative map by the City Council” .

FINDING NO. 1: The proposed subdivision is consistent with the General Plan and any applicable Specific Plan.

FACTS: The Project is consistent with the General Plan PC-R Planned Commercial Residential land use designation and the approved Development Agreement, and its IPDP. Consistent with Section 10-2.309(b) the Public Works Director has provided a Statement of Findings and Recommendation dated March 5, 2020 to grant three variances from the subdivision Section 10-2.105 regarding street slope, and street width of the City's Engineering Design Standards.

FINDING NO. 2: The City Council has considered the effect of the proposed subdivision on regional housing needs and balanced such needs against the public service needs of City residents and available fiscal and environmental resources.

FACTS: The proposed residential development would consist of a mixture of three basic types of attached housing: townhomes, courtyard units and podium housing. There are a variety of unit and bedroom sizes which will offer a variety of rental or sales prices. The Development Agreement included a minimum long-term affordable housing set-aside for moderate income of 20%. The Project will provide 598 new residential units helping the City to meet its RHNA goals. The EIR for the approved IPDP evaluated the demands of the approved IPDP on the City's public service providers and concluded that the development described in the approved

IPDP would not exceed or place an undue burden on the service needs of the City's existing residents and its available fiscal and environmental resources. The proposed FPDP will impose less demands on the City's service providers and its fiscal and environmental resources.

III. CONDITIONAL USE PERMIT NO. CUP 19-01

Section 50.300 of the Zoning Code requires the following findings with facts to be made in order to approve a Conditional Use Permit:

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

FACTS: Neighborhood Commercial is a consistent use with both the General Plan, and Municipal Code designation of PC-R Planned Commercial Residential. Any neighborhood commercial use over 2,000 sq. ft. requires a conditional use permit. The proposed neighborhood commercial use of 4,200 square feet will be located in residential podium C, ground floor.

FINDING NO. 2: The proposed location of the use conforms with the purposes of the Zoning Ordinance and the purposes of the district in which the site is located, and will comply with the applicable provisions of the Zoning Ordinance.

FACTS: The commercial use requiring the conditional use permit is located in the PC-R planned commercial residential mixed-use district and conforms with the purposes of the Zoning Ordinance because it will:

1. Be located in a well planned mixed-use development.
2. Be part of an integrated mixture of residential and commercial employment generating uses within the same structure or site.
3. Be a ground floor commercial use beneath upper floor residential uses.
4. Could minimize vehicle use by providing commercial services in immediate proximity to residential uses.

FINDING NO. 3: The location, size, design and operating characteristics of the proposed use will be compatible in design, scale, coverage and density with existing and anticipated adjacent uses.

FACTS: The commercial use that is the subject of the conditional use permit is consistent with the General Plan Land Use designation of PC-R Planned Commercial Residential to provide both either residential or commercial or residential and commercial uses with a non-residential FAR floor area ratio in the range from 0.20 to 0.40 with a typical FAR of 0.30. The commercial FAR of 0.06 is below the maximum. The location of the commercial use is on the ground floor of residential podium building C, accessible from the podium building, and the community at large. The neighborhood commercial space offers an opportunity for reduced vehicle trips within the subdivision. The Height Limitation Exception of Section 13-30.520 applies to heights that exceed the 65' maximum in the base Zoning District for towers, spires, cupolas, chimney, and similar structures but not greater than 25' taller and these taller features do not exceed more than 10% of the ground area covered by all structures.

FINDING NO. 4: There is adequate access, traffic, public utility, and public service capacity for the proposed use and surrounding existing and anticipated uses.

FACTS: The location of the neighborhood commercial space, in the ground floor of Building C of the podium residential uses, makes the space accessible primarily to the subdivision. Bicycle and pedestrian paths are proposed thru-out the subdivision, increasing pedestrian accessibility to the neighborhood commercial use. Dedicated parking spaces in the Building C parking garage for the commercial use is provided.

Adequate public and private easements and utilities will be provided on this site to serve the commercial and residential uses. The preliminary title report dated April 30, 2019, includes the following existing public and private easements: a) an utility easement in favor of PG&E; b) an utility easement in favor of EBMUD, c) a sanitary sewer easement in favor of the City does not exist, but is required, d) an access and utility easement in favor of Crown Castle Towers for access to the antennae, and e) a storm drain easement in favor of the City, f) an easement for pipelines in favor of Union Oil Company, g) a pipeline easement for San Pablo Bay Pipeline Company. In order to accommodate the construction of the proposed project, all the above existing easements will need to be quitclaimed or abandoned and relocated to the edges of the property and relevant fees paid. Republic Services trash removal services has adequate capacity in the land fill, and will provide feedback on accessibility and service at the building permit.

A CEQA Addendum on the project determined that the 2009 Redevelopment Plan project vehicle trips of 487 daily vehicle trips would not be exceeded by this project.

FINDING NO. 5: There are no potential, significant adverse environmental impacts that could not be feasibly mitigated and monitored.

FACTS: The CEQA Addendum to the Hercules Update 2009 Redevelopment Plan Final Environmental Impact Report (SCH#20018112049), certified in April 2009, supports the City's determination that the Project would not require major revision to the 2009 EIR due to new or substantially increased significant environmental effects. The 2009 EIR (Table ES-1) identified significant and unavoidable impacts for aesthetics, air quality, noise, and traffic. The conclusions from the Addendum is the project will not have greater impact, or new mitigations. Modified mitigations are provided in the Addendum.

IV. DESIGN REVIEW PERMIT NO. DRP 19-02

Section 42.500 of the Zoning Code requires the following findings with facts to be made in order to approve a Design Review Plan:

FINDING NO. 1: The approval of the design review plan is in compliance with all provisions of this Chapter, pertinent provisions of Zoning Ordinance and applicable zoning and land use regulations, including but not limited to the Hercules General Plan as amended and any specific plan.

FACTS: The project is generally consistent with the approved IPDP that is the subject of the Development Agreement. Further, the project is consistent with the purpose of the Municipal Code Design Review Chapter 13-42 to providing orderly development with good design, and site relationships and enhancing what was a brown field to a mixed-use commercial residential project. The applicant has provided the required information in this Chapter. The project is consistent with the PC-R Planned Commercial Residential General Plan land use designation, and Zoning Ordinance.

FINDING NO. 2: The approval of the design review plan is in the best interests of the public health, safety, and general welfare.

FACTS: The re-use of the former brownfield site into a mixed-use neighborhood commercial, residential use was the former Redevelopment Agency goal. The Project is consistent with the original IPDP to fulfill the image of an Italian Hill Town. The urban plan reuses a former industrial site after clean-up to a fully functional residential neighborhood with on-site active amenities, 20% affordable housing for median income, and neighborhood commercial use.

FINDING NO. 3: General site considerations, including site layout, open space and topography, orientation and location of buildings, vehicular access, circulation and parking, setbacks, height, walls, fences, public safety and similar elements have been designed to provide a desirable environment for the development.

FACTS: The project as proposed will take advantage of the hilly and visually prominent site by development a high-density, pedestrian-oriented master planned community. Two entry driveways are proposed from San Pablo Avenue linking to a vehicular circulation pattern that winds and traverses the site. There are four major public spaces and a number of semi-private plazas and courtyards, maximizing views from the site to the bay. Parking has been provided within each unit, and on-site adjacent and close-by each housing cluster, or in underground parking below each podium. The 598 residential units are provided in three building types to serve a mix of incomes, ages, and family types. The building designs are representative of a modern Italian Mediterranean style.

FINDING NO. 4: General architectural considerations, including the character, scale, and quality of the 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 insure the compatibility of this development with its design concept and the character of adjacent buildings.

FACTS: Three building types are proposed including townhome, courtyard, and podium. Each of these building types include a rich combination of high-quality building materials to enhance the design. The building color combinations are reminiscent of Italian hillside communities. The building design combined with the landscape, lighting, and wall designs will create a quality subdivision. Similar building materials are on all building types linking the buildings through-out the site. A site-wide uniform landscaping plan with pedestrian walking paths will link building and uses and common areas on the site, and create links to off-site sidewalks and the bus stop and bicycle lane on San Pablo Avenue.

FINDING NO. 5: General landscape considerations, including the location, type, size, color, texture and coverage of plant materials at the time of planting and after a 5-year growth period, provision for irrigation, maintenance and protection of landscaped areas and similar elements have been considered to insure visual relief, to complement buildings and structures, and to provide an attractive environment for the enjoyment of the public.

FACTS: The landscape plans are designed to address distinct areas of the site including the two entry driveways from San Pablo Avenue; complementary landscaping for the delineated wetlands, and the three rainwater retention ponds; the highly visible center of the site from I-80 and San Pablo Avenue; around each townhome and courtyard cluster; and the podium central courtyards. The tree palette includes 417- 24” box trees or 9 types which will provide the site and buildings immediate greenery. An addition 448 accent, street tree, and wetland complimentary tree will be planted to soften the site. A Homeowners Association and Lighting and Maintenance District will be formed for long-term maintenance.