

## Final Initial Study/Mitigated Negative Declaration Skelly Residential Project City of Hercules, Contra Costa County, California

Prepared for:  
**City of Hercules**  
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Hercules, CA 94547  
510.799.8248

Contact: Tim Rood, Community Development Director

Prepared by:  
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Walnut Creek, CA 94597  
925.357.2562

Contact: Mary Bean, Project Director  
Tsui Li, Project Manager

Date: August 29, 2022

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## SECTION 1: INTRODUCTION

Although not required by the California Environmental Quality Act (CEQA), the City of Hercules has prepared the following responses to comments received on the Skelly Residential Project Draft Initial Study/Mitigated Negative Declaration (Draft IS/MND). The Draft IS/MND and the Responses to Comments, which are included in this document, comprise the Final IS/MND for use by the City of Hercules in its review and consideration of the proposed Skelly Residential Project (proposed project). All public comments regarding the Draft IS/MND are included for consideration by the City of Hercules.

This document is organized into two sections:

- **Section 1—Introduction.**
- **Section 2—Responses to Written Comments:** Provides a list of the agencies, organizations, and individuals who commented on the Draft IS/MND. Copies of all of the letters received regarding the Draft IS/MND and responses thereto are included in this section.
- **Section 3—Errata: Includes an addendum listing refinements and clarifications on the Draft IS/MND, which have been incorporated.**

The Final IS/MND includes the following contents:

- Draft IS/MND (provided under separate cover)
- Draft IS/MND appendices (provided under separate cover)
- Responses to Written Comments and Errata (Section 2 and 3 of this document)
- Mitigation Monitoring and Reporting Program (MMRP) (provided under separate cover)

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## SECTION 2: RESPONSES TO WRITTEN COMMENTS

### 3.1 - List of Authors

A list of public agencies, organizations, and individuals that provided comments on the Draft Initial Study/Mitigated Negative Declaration (Draft IS/MND) is presented below. Each comment has been assigned a code. Individual comments within each communication have been numbered so comments can be cross-referenced with responses. Following this list, the text of the communication is reprinted and followed by the corresponding response.

Author	Author Code
<b>State Agencies</b>	
California Department of Fish and Wildlife .....	CDFW
California Department of Toxic Substances Control .....	DTSC
<b>Local Agencies</b>	
Contra Costa County Flood Control and Water Conservation District .....	FC DISTRICT
<b>Individuals</b>	
Avila, Aurora .....	AVILA
Gilbert, Wil and Scheran.....	GILBERT
Khuu, Ciera .....	KHUU
Rettig, Tom.....	RETTIG

### 3.2 - Responses to Comments

#### 3.2.1 - Introduction

Although a lead agency is not required to provide written responses to comments on proposed Negative Declarations (NDs) or Mitigated Negative Declarations (MNDs) under the California Environmental Quality Act (CEQA), the City of Hercules has evaluated the comments received on the proposed Skelly Residential Project (proposed project) Draft IS/MND and has elected to provide responses to the following comments. None of the comments received results in the need to recirculate the Draft IS/MND or to prepare an Environmental Impact Report (EIR).

#### 3.2.2 - Comment Letters and Responses

The comment letters reproduced in the following pages follow the same organization as used in the List of Authors.

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**From:** Chambers, Andrew@Wildlife <[Andrew.Chambers@Wildlife.ca.gov](mailto:Andrew.Chambers@Wildlife.ca.gov)>

**Sent:** Tuesday, August 2, 2022 8:26 AM

**To:** Timothy Rood <[trood@ci.hercules.ca.us](mailto:trood@ci.hercules.ca.us)>

**Cc:** Battaglia, Michelle@Wildlife <[Michelle.Battaglia@wildlife.ca.gov](mailto:Michelle.Battaglia@wildlife.ca.gov)>

**Subject:** Skelly Residential Project - SCH# 2022070045

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning Todd,

CDFW has reviewed this project and has the following statement to provide to the City and project proponent:

Notably on the Site Plan (Exhibit 4) on .pdf page #23 of the IS/MND, and found elsewhere, the project as designed would involve alteration and potential impacts to an ephemeral tributary to Pinole Creek, including to the bank and vegetation hydrologically dependent thereof. This alteration of the ephemeral tributary would require notification of the project to CDFW under Fish and Game Code section 1602. CDFW is requesting that the City, as lead agency, require an application for a Standard Agreement be submitted for the project (which can be done online and found at: <https://wildlife.ca.gov/Conservation/Environmental-Review/LSA/Agreement-Types#55230748-standard-agreement>) by the project proponent as a basis of approval of the IS/MND.

1

CDFW's Habitat Conservation Unit found it best to address this statement as an email instead of a formal comment letter. If any questions arise or further discussions are needed, feel free to contact me regarding this project.

Thank you,

-Andy

Andrew O. Chambers

Environmental Scientist

Bay Delta Region, Habitat Conservation Unit

2825 Cordelia Road, Suite 100

Fairfield, CA 94534

(707) 266-2878

## State Agencies

### ***California Department of Fish and Wildlife (CDFW)***

#### *Response to CDFW-1*

The commenter discusses the on-site ephemeral tributary to Pinole Creek and the relevant CDFW notification requirements if the drainage feature would be impacted because of project construction. As stated in the Project Description (pages 1 and 2 of the Draft IS/MND), the drainage would not be graded or developed; it would be avoided in its entirety as part of the proposed project. Furthermore, the proposed project is required to follow Mitigation Measure (MM) BIO-2 to avoid the on-site aquatic features and their associated habitats, which would include notification to the CDFW under Fish and Game Code Section 1602.

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## Department of Toxic Substances Control



**Jared Blumenfeld**  
Secretary for  
Environmental Protection

Meredith Williams, Ph.D., Director  
8800 Cal Center Drive  
Sacramento, California 95826-3200



**Gavin Newsom**  
Governor

### SENT VIA ELECTRONIC MAIL

July 29, 2022

Mr. Tim Rood  
Community Development Director  
City of Hercules  
111 Civic Dr  
Hercules, CA 94547  
[TRood@ci.hercules.ca.us](mailto:TRood@ci.hercules.ca.us)

NOTICE OF INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION FOR THE SKELLY RESIDENTIAL PROJECT – DATED JULY 2022 (STATE CLEARINGHOUSE NUMBER: 2022070045)

Dear Mr. Rood:

The Department of Toxic Substances Control (DTSC) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) for the Skelly Residential Project (Project). The Lead Agency is receiving this notice from DTSC because the Project includes one or more of the following: groundbreaking activities, presence of site buildings that may require demolition or modifications, importation of backfill soil, and/or work on or in close proximity to an agricultural or former agricultural site.

1

DTSC recommends that the following issues be evaluated in the Hazards and Hazardous Materials section of the MND:

1. The MND should acknowledge the potential for historic or future activities on or near the project site to result in the release of hazardous wastes/substances on the project site. In instances in which releases have occurred or may occur, further studies should be carried out to delineate the nature and extent of the contamination, and the potential threat to public health and/or the environment should be evaluated. The MND should also identify the mechanism(s) to initiate any required investigation and/or remediation and the government agency who will be responsible for providing appropriate regulatory oversight.

2

2. If buildings or other structures are to be demolished on any project sites included in the proposed project, surveys should be conducted for the presence of lead-based paints or products, mercury, asbestos containing materials, and polychlorinated biphenyl caulk. Removal, demolition, and disposal of any of the above-mentioned chemicals should be conducted in compliance with California environmental regulations and policies. In addition, sampling near current and/or former buildings should be conducted in accordance with [DTSC's 2006 Interim Guidance Evaluation of School Sites with Potential Contamination from Lead Based Paint, Termiticides, and Electrical Transformers.](#) 3
3. If any projects initiated as part of the proposed project require the importation of soil to backfill any excavated areas, proper sampling should be conducted to ensure that the imported soil is free of contamination. DTSC recommends the imported materials be characterized according to [DTSC's 2001 Information Advisory Clean Imported Fill Material.](#) 4
4. If any sites included as part of the proposed project have been used for agricultural, weed abatement or related activities, proper investigation for organochlorinated pesticides should be discussed in the MND. DTSC recommends the current and former agricultural lands be evaluated in accordance with DTSC's 2008 [Interim Guidance for Sampling Agricultural Properties \(Third Revision\).](#) 5

DTSC appreciates the opportunity to comment on the MND. Should you need any assistance with an environmental investigation, please visit DTSC's [Site Mitigation and Restoration Program](#) page to apply for lead agency oversight. Additional information regarding voluntary agreements with DTSC can be found at [DTSC's Brownfield website.](#)

If you have any questions, please contact me at (916) 255-3582 or via email at [Brian.McAloon@dtsc.ca.gov](mailto:Brian.McAloon@dtsc.ca.gov).

Sincerely,



Brian McAloon  
Project Manager  
Site Evaluation and Remediation Unit  
Site Mitigation and Restoration Program  
Department of Toxic Substances Control

cc: (via email)

Governor's Office of Planning and Research  
State Clearinghouse  
[State.Clearinghouse@opr.ca.gov](mailto:State.Clearinghouse@opr.ca.gov)

Mr. Dave Kereazis  
Office of Planning & Environmental Analysis  
Department of Toxic Substances Control  
[Dave.Kereazis@dtsc.ca.gov](mailto:Dave.Kereazis@dtsc.ca.gov)

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## **California Department of Toxic Substances Control (DTSC)**

### *Response to DTSC-1*

The comment provides introductory remarks. No response is required.

### *Response to DTSC-2*

This comment requests a discussion of the potential for the proposed project to result in the release of hazardous wastes/substances during construction and operation.

Accidental release of hazardous materials and/or substances is discussed in Section 2.9, Hazards and Hazardous Materials, of the Draft IS/MND. A Phase I Environmental Site Assessment (Phase I ESA) was prepared for the proposed project, which evaluated the site's potential for Recognized Environmental Conditions (RECs)<sup>1</sup> to occur on-site based on review of environmental regulatory and historic records and site reconnaissance. It was determined in the Phase I ESA that there are no RECs on-site and the report did not recommend any further assessment of the property.

The potential for release of hazards materials during construction and operation of the proposed project is discussed in the Draft IS/MND. Construction activities and use of hazardous materials (such as gasoline, oils, or fluids from construction equipment) would comply with applicable federal, State, and local regulations, policies, and ordinances set forth by California Environmental Protection Agency (Cal/EPA), California State Water Resources Control Board (State Water Board), DTSC, California Division of Occupational Safety and Health (Cal/OSHA), California Department of Transportation (Caltrans), Resource Conservation and Recovery Act (RCRA), Contra Costa Environmental Health Department, and the Rodeo-Hercules Fire Protection District. In addition, the applicant is required to retain a qualified hazardous materials contractor to remove and dispose of asbestos containing materials (ACMs) or lead-based paints (LBPs) that could be present in the existing structures in accordance with federal and State regulations.

Substances that may be used during project operation include cleaning agents, building maintenance chemicals, and pesticides and herbicides used for landscaping and maintenance. The amount of materials required for these activities would not be large enough to create a significant hazard to the public or environment. Although the proposed project would operate as single-family residences with no significant use of heavy chemicals or pollutants, the transport, use, and disposal of these operational substances is controlled and regulated by RCRA; Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); and the federal Clean Air Act. Therefore, construction and operation of the proposed project would not create a significant hazard to the public or the environment.

### *Response to DTSC-3*

This comment is related to demolition of on-site structures and the potential for release of hazards chemicals such as ACMs and LBP.

As discussed above, demolition of on-site structures would be conducted in accordance with federal and State regulations, including California Health and Safety Code Section 19827.5 (Visual Inspection and Sampling). All materials containing LBP shall be removed in accordance with Cal/OSHA Lead in

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<sup>1</sup> A REC is the presence or likely presence of any hazardous substances or petroleum products in, on, or at a property.

Construction Standard, Title 8, California Code of Regulations 1532.1, including employee training, employee air monitoring, and dust control. All materials containing asbestos shall be handled and removed by qualified professionals in accordance with applicable regulations, including Bay Area Air Quality Management District (BAAQMD) Regulation 11, Rule 2; Title 22, California Code of Regulations, Section 66261.24; Title 8, California Code of Regulations, Section 1532.1; and Title 40, Code of Federal Regulations, Part 745.

*Response to DTSC-4*

The comment states that any imported soils should be evaluated prior to their use as backfill material.

As documented in Section 2.7, Geology and Soils, of the Draft IS/MND and as required by MM GEO-1, the proposed project must comply with the recommendations included in the Geotechnical Investigation Report (Appendix D of the Draft IS/MND). The Geotechnical Investigation Report requires that all imported soil shall be approved by the Project Soil Engineer. The proposed project would comply with appropriate California environmental regulations and policies regulating hazardous materials, including the import and export of soil associated with the proposed project. Any imported fill would meet applicable governmental requirements related to chemical composition.

*Response to DTSC-5*

The commenter recommends evaluation of agricultural or other soils that may contain pesticides per DTSC's 2008 Interim Guidance.

A review of available historic aerial imagery does not show any evidence that the project area has been used for agricultural or other activities over the past 80 years. No evidence has been presented to indicate that organochlorinated pesticides have been used in the project area.

**From:** Joe Smithonic <[Joe.Smithonic@pw.cccounty.us](mailto:Joe.Smithonic@pw.cccounty.us)>  
**Sent:** Tuesday, July 26, 2022, 10:42 AM  
**To:** Timothy Rood <[trood@ci.hercules.ca.us](mailto:trood@ci.hercules.ca.us)>  
**Cc:** Gus Amirzehni <[Gus.Amirzehni@pw.cccounty.us](mailto:Gus.Amirzehni@pw.cccounty.us)>  
**Subject:** Sub 9606, Skelly Residential Project Initial Study & Mitigated Negative Declaration

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Hello Mr. Rood,

The Contra Costa County Flood Control and Water Conservation District (FC District) has reviewed the Initial Study/Mitigated Negative Declaration (IS/MND) dated July 5, 2022, for Subdivision 9606 located at 215 Skelly (APN 404-020-012) in the City of Hercules (City). We submit the following comments:

1. Section 1.4 of the IS/MND identifies the development’s northwest bioretention facility as a detention basin and Section 2.10(c)(iii) states that the installation of a bioretention facility will “ensure that stormwater runoff would not exceed pre-project conditions,” implying that the basin facility is intended for dual purposes – clean water and flood control. The FC District does not recommend the use of bioretention areas (C.3 facilities) sized to meet Contra Costa Clean Water Program C.3 requirements for mitigating peak flows. These C.3 facilities have not been proven to perform as peak flow mitigation measures under design storm flow conditions for the 10-year storm and above. They do not account for the saturated condition of soils that could precede a 10-year design storm. They have not been in use long enough to provide operational experience that they will continue to perform as designed and be maintained properly. C.3 facilities that are proposed to be used to mitigate peak flows should be analyzed in a way that ignores the above surface storage volume required by the C.3 facilities sizing criteria. Further, we recommend that C.3 facilities be analyzed using a hydrograph produced by or accepted by the FC District. We recommend that Section 2.10(c)(iii) of the IS/MND be revised to reflect this comment.

2. The FC District recommends that environmental concern number 2.10(c)(iii) be revised to “less than significant with mitigation incorporated.” The City should require the developer to submit detailed hydrology and hydraulic calculations to the City that demonstrate the proposed facilities’ ability to mitigate post-project peak flows to pre-project levels and that demonstrate the adequacy of the downstream system and

Refugio Creek, which was noted in Section 2.10 of the IS/MND as an existing system that experiences flooding. If the calculations cannot demonstrate the adequacy of the proposed and existing storm drain systems, the City should require the developer to construct improvements that increase capacity at any deficient sections of the storm drain systems, as a mitigation measure for Section 2.10(c)(iii). We defer review of the local drainage to the City. However, the FC District is available to provide technical review under our Fee-for-Service program.

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CONT

We appreciate the opportunity to comment on the IS/MND for Subdivision 9606 and welcome continued coordination with the City. If you have any questions, please contact me at your earliest convenience.

Thank you,

**Joe Smithonic** | Civil Engineer

Contra Costa County Flood Control & Water Conservation District

255 Glacier Drive, Martinez, CA 94553

p: 925.313.2348 | f: 925.313.2333

e: [joe.smithonic@pw.cccounty.us](mailto:joe.smithonic@pw.cccounty.us) | [cccpublicworks.org](http://cccpublicworks.org)

## Local Agencies

### **Contra Costa County Flood Control and Water Conservation District (FC DISTRICT)**

#### *Response to FC DISTRICT-1*

The comment provides introductory remarks and does not raise any environmental issues. No response is required.

#### *Response to FC DISTRICT-2*

The commentor raises questions regarding the analysis of C.3 facilities. The proposed bioretention area would not be used for flood control purposes. Based on preliminary analysis of the downstream storm drain outfall capacity, the proposed project's additional flows would not adversely impact the downstream storm drain system. A more detailed hydrology/hydraulic analysis will be provided with the final project design documents to be reviewed and approved by the City prior to issuance of grading permit. The analysis will be prepared using a hydrograph produced by or accepted by the FC District. In the event on-site detention is required, an underground storage system would be proposed under the bioretention area to avoid adverse impacts to the proposed site plan. The proposed stormwater control system would be designed to meet applicable County and local regulations, and would be reviewed by the City. Per Section 5-8.050 of the Municipal Code, a Stormwater Control Plan that meets the criteria of the most recent version of the Contra Costa Clean Water Program Stormwater C.3 Guidebook must be submitted as part of every application for a development project prior to issuance of a certificate of occupancy.

In addition to C.3 facilities, and consistent with the Municipal Code policies and code requirements, the proposed project would also be required to install stormwater control facilities to ensure that stormwater runoff would not exceed pre-project conditions and that water quality standards and waste discharge requirements are met. Therefore, impacts would be less than significant.

#### *Response to FC DISTRICT-3*

For clarification purposes, Impact 2.10(c)(iii) has been revised to reflect the responses above. See Section 3, Errata.

#### *Response to FC DISTRICT-4*

As discussed, above, detailed hydrology and hydraulic calculations would be submitted to the City for review and approval prior to issuance of grading permit. Per General Plan Program 10a, the City would ensure that adequate drainage facilities and pollution prevention and control infrastructure and built to accommodate the increase in runoff from newly developed areas. If necessary, the City would require the applicant to construct improvements that increase capacity at any deficient sections of the City's storm drain system. This is a requirement for consistency with the General Plan and will be included as a project condition of approval. Compliance with existing policies and regulations is mandatory and is not considered a mitigation measure. No additional mitigation is necessary.

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**From:** AURORA AVILA <[aurora.avila1@gmail.com](mailto:aurora.avila1@gmail.com)>

**Sent:** Tuesday, July 5, 2022 12:36 PM

**To:** Timothy Rood <[trood@ci.hercules.ca.us](mailto:trood@ci.hercules.ca.us)>; Erin LaFlamme <[erin.laflamme@willismg.com](mailto:erin.laflamme@willismg.com)>

**Subject:** Skelly Residential Project

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mr. Rood,

Per the Notice of Intent to Adopt the Skelly Residential Project here are my concerns :

1) Hopefully this construction will not coincide with the upcoming San Pablo Bridge Project. Traffic would be impacted even more. | 1

2) There already is a serious amount of traffic that uses Skelly and most cars exceed the speed limit. There should be speed bumps installed on Skelly. | 2

3) On the corner of Pearce & Skelly a Stop sign should be installed by the end of construction due to the extra traffic coming out of the new project. | 3

4) With all the heavy machinery and large trucks and equipment, Skelly will be "beat-up". The builder or the City needs to anticipate this and make provisions for road repair and/or re-asphalt Skelly upon completion of the project. | 4

Please advise how these concerns will be handled.

--

***Aurora Avila***

***112 Skelly***

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## Individuals

### ***Aurora Avila (AVILA)***

#### *Response to AVILA-1*

The commenter is concerned about traffic generated by the proposed project and the upcoming San Pablo Bridge Project, should they occur concurrently. This comment will be part of the record for consideration by the Planning Commission and City Council.

#### *Response to AVILA-2*

The commenter states that there is currently a high level of traffic on Skelly and most cars exceed the speed limit. The commenter requests that a speed bump be installed on Skelly.

Changes to the CEQA Guidelines were adopted in December 2018, which require all lead agencies to adopt Vehicle Miles Traveled (VMT) as a replacement for automobile delay-based Level of Service (LOS) as the new measure for identifying transportation impacts for land use projects. Automobile delay, as described solely by LOS or similar measure of traffic congestion, is no longer considered a significant impact under CEQA. However, an LOS analysis was prepared as part of the project Traffic Impact Study (Appendix H of the Draft IS/MND) to demonstrate consistency with the General Plan. The findings of the Traffic Impact Study are discussed in detail in Section 2.17, Transportation, of the Draft IS/MND. The proposed project is expected to generate 377 total daily trips, including 28 net new AM peak-hour trips (7 in, 21 out) and 38 net new PM peak-hour trips (24 in, 14 out). Under Existing Plus Project and Cumulative Plus Projects scenarios, both of the study intersections (Hercules Avenue/Skelly, and Hercules Avenue/San Pablo Avenue) would continue to operate within applicable jurisdictional standards during the AM peak-hour, and both study intersections operate acceptably in the PM peak-hour. The proposed project would be consistent with LOS standards set forth under the Hercules General Plan and Contra Costa County Transportation Authority (CCTA) Congestion Management Program (CMP).

The proposed project also includes various traffic calming measures along Skelly, including an on-site bump-out, a bump-out at project entry, and an 8-foot bump-out approximately 500 feet east of the project site. Bump-outs reduce driving speed by narrowing the crossing distance for pedestrians and decreasing the curb radii, therefore causing drivers to make slower turns. An exhibit showing these measures is attached as Attachment A. The request for additional traffic calming measures has been noted for consideration by the Planning Commission and City Council.

#### *Response to AVILA-3*

The commenter requests that a stop sign be installed on the corner of Pearce and Skelly by the end of project construction. This comment is noted for consideration by the Planning Commission and City Council.

#### *Response to AVILA-4*

The commenter states that construction equipment and trucks would contribute to pavement deterioration on Skelly, and requests that the City and/or applicant provide pavement repair upon completion of the proposed project. This comment is noted for consideration by the Planning Commission and City Council.

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Wil & Scheran Gilbert  
192 Rosti  
Hercules, Ca. 94547

August 3, 2022

TIMOTHY ROOD ,AICP  
Community Development Director

111 Civic Drive  
Hercules, CA. 94547

Dear Mr. Rood.

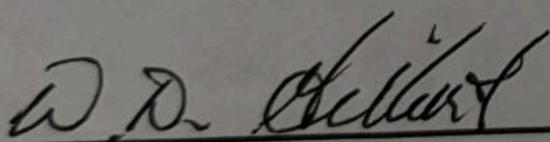
We live adjacent to the 215 Skelly site and have a few concerns as to how it will affect us, we have a

Couple of questions:

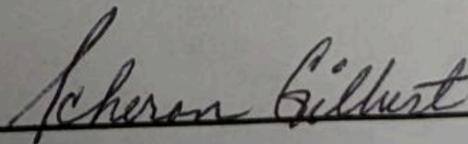
(1) Parcel C. Will the Emergency Vehicle Access from Rosti be blocked to other vehicles and pedestrians ? How ?

(2) Parcel B. What is the BioRetention and What does potential wetlands mean ?

Thank you for this opportunity.



Wil and Scheran Gilbert



8/3/22  
Date:

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### **Wil and Scheran Gilbert (GILBERT)**

#### *Response to GILBERT-1*

The comment provides introductory remarks. No response is required.

#### *Response to GILBERT-2*

The commenter asks if the proposed Emergency Vehicle Access (EVA) road (Parcel C) would be blocked from pedestrians and non-emergency vehicles, and if so, how would it be enforced.

According to the applicant, the EVA road would be usable in the event of an emergency by the Rodeo-Hercules Fire District. It could also be used for resident emergency evacuation. There would be at least one gate erected across the EVA road in accordance with Fire District requirements. There may be gates both along the other end of the EVA road (on Rosti) and the proposed neighborhood. The proposed project would comply with the Fire District's requirements for the exact design and location of the gates. The EVA is not intended to be used for pedestrian access.

#### *Response to GILBERT-3*

The commenter asks the definition of wetlands and bioretention.

Wetlands are areas where water covers the soil or is present either at or near the surface of the soil all year or for varying periods of time during the year. Wetlands in California are protected by federal and State laws, regulations, and policies that prevent further degradation and destruction. The wetlands on Parcel B would not be graded or developed; they would be preserved in their entirety as part of the proposed project and would support the comprehensive stormwater management strategy for the proposed development. As part of the stormwater management strategy, Parcel B would also contain a 16,957-square-foot bioretention area. A bioretention basin is a landscaping feature, a depression that collects stormwater runoff into a designated area where it is subsequently filtered through the area until it is purified. Mulch, special soils, and sand beds all filter and percolate stormwater to rid it of harmful substances and excessive nutrients, while an underdrain system removes the water once it has been treated so that it can be usefully applied to nearby planted areas.

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**From:** Ciera Khoo <[ccquell15@hotmail.com](mailto:ccquell15@hotmail.com)>  
**Sent:** Wednesday, August 3, 2022 4:51 PM  
**To:** Timothy Rood <[trood@ci.hercules.ca.us](mailto:trood@ci.hercules.ca.us)>  
**Subject:** 215 Skelly Residential Project

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mr. Rood,

I'm writing to submit my comments during this public review period for the proposed residential build project at 215 Skelly.

I've attended the informational meeting by the developer to learn more about this project and have had a chance to skim through the findings from the Mitigated Negative Declaration and Initial Study. While I'm uncertain of some of the findings due to the low number of data points regarding traffic impact and such. I'm writing to express my concern and hope to impress upon you the importance of keeping some of the eucalyptus trees that reside on this project site. The Notice of Intent to Adopt a Mitigated Negative Declaration states "approximately 76 existing trees" will be remove to clear the site for construction. These eucalyptus trees have dated back even before 1960 and are probably close to 100 or more years old. These trees have existed and spans multigenerations and will last beyond our time. They provide shelter and protection from wind, pollution, and especially from noise. Specifically, as shown in the picture below, these trees shield the neighborhood from the loud train noise coming from the railroad track. I can see the beautiful and majestic canopies from my bedroom, I can see them and the blue sky through my bathroom window as I am coming out of the shower, I can see them first thing as I emerge from my front door to go to work each morning, and I can see them again at the end of the day as I turn onto the street to my home.

I know that I'm not the only one with these sentiments and that these trees represent and symbolize much more than just vegetation. It is understandable that any site should be prep for construction, but it doesn't necessitate the removal of all the trees. I'm asking the developer to keep some trees that are critical in protecting the area and neighborhood from noise and pollution arising from the railroad track. Sustainable development is definitely doable, they can always design with slight modifications to incorporate salvaging these trees into their residential projects.

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I'm asking for your's and the city councils' considerations with this topic as you have the power to make a difference to our community. Developers come and go, they only look at the finances, but we are the people in the community that are impacted by these decisions and we have to live and see it every day.

5

Thank you so much for your time and considerations.



Ciera K.

### ***Ciera Khuu (KHUU)***

#### *Response to KHUU-1*

The commenter requests that the applicant preserve more of the existing trees on-site. The commenter notes the proposed number of trees to be removed (76) and states that the eucalyptus trees have existed since before 1960 and could possibly be 100 years old.

The removal of mature trees is regulated by the City of Hercules through Municipal Code Title 4, Chapter 15, Removal of Mature Trees. As detailed in MM BIO-3, the applicant would adhere to the requirements of the tree ordinance which includes a submittal of a Tree Replacement Plan to the City prior to the removal of trees and/or prior to the issuance of a demolition or grading permit. The Tree Replacement Plan shall include a minimum 1:1 replacement ratio for City-protected trees impacted by project construction.

It is also worth noting that of the 95 mature trees studied in the Arborist Report (Appendix B), 28 are identified to be in poor condition and are likely to fail, are in decline, or are in poor health. In addition, the applicant is actively working with neighbors and the Project Arborist to preserve more existing trees.

This comment is noted for consideration of the Planning Commission and City Council.

#### *Response to KHUU-2*

The commenter states that the trees on-site provide protection from wind, pollution, and noise from the Burlington Northern Santa Fe (BNSF) rail line south of the project site. See Response to KHUU-1. This comment is noted.

#### *Response to KHUU-3*

The commenter describes the view of the on-site trees available from her home.

Although private views are outside the purview of CEQA, the applicant is actively working with neighbors and the Project Arborist to identify additional trees that can be preserved. As discussed in Response to KHUU-1, the applicant must also prepare a Tree Replacement Plan. This comment is noted.

#### *Response to KHUU-4*

This comment summarizes the points discussed above. See Response to KHUU-1. This comment is noted.

#### *Response to KHUU-5*

The commenter asks the City decision-makers to consider the impacts to existing on-site trees. See Response to KHUU-1. This comment is noted.

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**From:** Tom Rettig <[tomrettig@mac.com](mailto:tomrettig@mac.com)>  
**Sent:** Sunday, July 17, 2022 2:05 PM  
**To:** Timothy Rood <[trood@ci.hercules.ca.us](mailto:trood@ci.hercules.ca.us)>  
**Subject:** Skelly Residential Project

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I am a resident at 151 Skelly and have concerns about the noise levels of the project.

- What will the penalties be for operating outside the hours of 7am-7pm? There does not seem to be any incentive for the developer to operate within these hours other than this document saying they will. Without repercussions, this does not seem enforceable. 1
- With regards to enforcement, what agency will be responsible for shutting down operations that begin before 7am or continue beyond 7pm? Again, if this is not enforceable, there is no incentive for the developer to operate within the stated times. 2
- Why is acceptable for the project to even operate on Saturday? For most of the residents, that is our day off and it is unreasonable to ask that we give up the peace we enjoy in this neighborhood during our time to relax. At a minimum, there should be no large machinery operating on Saturday or traveling the streets. 3

I am not suggesting there should not be any development, but I purchased my home just over a year ago because it was on a short quiet street. I am not fond of the idea that the neighborhood is being extended off Skelly. At a minimum, I don't think it should intrude on the calm that we enjoy in our neighborhood. 4

Sincerely,

Tom Rettig  
151 Skelly  
Hercules, CA 94547  
[tomrettig@mac.com](mailto:tomrettig@mac.com)

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### **Tom Rettig (RETTIG)**

#### *Response to RETTIG-1*

The commenter asks how the noise restriction hours as noted in the Draft IS/MND would be enforced.

The City's existing noise ordinance Section 13-31.300 gives the Community Development Director the authority to impose limitations on construction hours and is enforced by the Police Department. Limitations on construction hours for the proposed project would be included as part of the development agreement for the proposed project.

In addition, as discussed in Section 2.13, Noise, of the Draft IS/MND, MM NOI-1 includes a restriction on construction activities to daytime hours (7:00 a.m. to 7:00 p.m. Monday through Saturday) as well as best management noise reduction techniques and practices to ensure that construction noise would not result in a substantial increase in ambient noise levels that would result in annoyance or sleep disturbance of nearby sensitive receptors. As part of MM NOI-1, the construction contractor shall designate a noise disturbance coordinator who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaints (starting too early, bad muffler, etc.) and establish reasonable measures necessary to correct the problem. The construction contractor shall visibly post a telephone number for the disturbance coordinator at the construction site. City staff shall follow up with the contractor or the disturbance coordinator if staff becomes aware that mitigation measures were not being met. The City Council could also choose to negotiate additional restrictions on construction activity with the developer as part of the development agreement.

#### *Response to RETTIG-2*

The commenter asks who would be responsible for enforcing MM NOI-1. See Response to RETTIG-1

#### *Response to RETTIG-3*

The commenter states that large construction machinery should not operate on Saturdays. This comment is noted for consideration of Planning Commission and City Council.

#### *Response to RETTIG-4*

The comment provides closing remarks. No response is required.

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**Appendix A:  
Exhibit**

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**LEGEND**

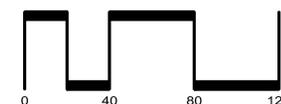
--- PUBLIC TRAIL CONNECTION



VESTING TENTATIVE MAP  
**215 SKELLY - SUBDIVISION 9606**  
 PRELIMINARY TRAFFIC CALMING PLAN

CITY OF HERCULES CONTRA COSTA COUNTY CALIFORNIA

SCALE: 1" = 40' DATE: APRIL 2022



SAN RAMON • (925) 866-0322  
 ROSEVILLE • (916) 788-4456  
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SHEET NO.  
**C6.0**

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## SECTION 3: ERRATA

The following are revisions to the Draft IS/MND for the Skelly Residential Project.

These revisions are minor modifications and clarifications to the document, and do not change the significance of any of the environmental issue conclusions within the Draft IS/MND. The revisions are listed by page number. All additions to the text are underlined (underlined) and all deletions from the text are stricken (~~stricken~~).

### 3.1 - Changes to the Draft IS/MND

#### Section 1.4: Project Description

##### Page 4

Stormwater would drain into a ~~detention basin~~ bioretention facility at the northwest corner of the project site.

#### Section 2.3: Air Quality

##### Page 33

<b>BL4:</b> Urban Heat Island Mitigation	<b>Consistent.</b> The proposed project would include 16,957 square feet of landscaped and irrigated bioretention basin area and 4,432 square feet of landscaping on Parcel D (about one-eighth of the Parcel), which would serve to <del>reduce</del> <u>treat</u> stormwater runoff and would include the planting of shade trees; hence, it would also reduce the urban heat island effect.
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#### Section 2.10: Hydrology and Water Quality

##### Page 103

The proposed project would comply with the aforementioned policies and code requirements, including the installation of landscaping ~~and a bioretention area~~ and stormwater control facilities, to ensure that stormwater runoff would not exceed pre-project conditions and that water quality standards and waste discharge requirements are met. A more detailed hydrology/hydraulic analysis will be provided with the final project design documents to be reviewed and approved by the City prior to issuance of grading permit. The analysis will be prepared using a hydrograph produced by or accepted by the FC District. In the event onsite detention is required, an underground storage system would be proposed under the bioretention area to avoid adverse impacts to the proposed site plan. The proposed stormwater control system would be designed to meet applicable County and local regulations, and would be reviewed by the City. As such, implementation of the proposed project is not expected to substantially degrade surface or groundwater quality. Therefore, impacts to water quality would be less than significant.

**Page 105**

The proposed project would comply with the aforementioned policies and code requirements, including the installation of landscaping ~~and a bioretention area~~ and stormwater control facilities, to ensure that stormwater runoff would not exceed pre-project conditions, and that water quality standards and waste discharge requirements are met. Therefore, impacts would be less than significant.

**Section 2.18: Utilities and Service Systems****Page 138**

The proposed project would obtain water from the EBMUD. The proposed project's wastewater would be collected by sewer lines owned and maintained by the City of Hercules and treated at the Pinole/Hercules Wastewater Treatment Plant, which is operated by the JPA. Stormwater would drain into a ~~detention basin~~ bioretention facility at the northwest corner of the project site. Solid Waste services would be provided by Republic Services. Electric power and natural gas would be provided by PG&E.

**Page 140**

Stormwater would drain into a ~~detention basin~~ bioretention facility at the northwest corner of the project site. This is required given the proposed project would involve the creation of more than 10,000 square feet of net new impervious surface. Runoff from proposed impervious surfaces would be directed to the bioretention areas, where a water quality treatment process would begin. Bioretention areas would remove pollutants by filtering runoff slowly through an active layer of soil. A more detailed hydrology/hydraulic analysis will be provided with the final project design documents to be reviewed and approved by the City prior to issuance of grading permit. The analysis will be prepared using a hydrograph produced by or accepted by the FC District. In the event onsite detention is required, an underground storage system would be proposed under the bioretention area to avoid adverse impacts to the proposed site plan. The proposed stormwater control system would be designed to meet applicable County and local regulations, and would be reviewed by the City. In addition, all cities within Contra Costa County are required to implement surface water control standards for projects in compliance with Provision C.3 of the Regional Water Quality Control Board (RWQCB) Municipal Regional Storm Water NPDES Permit No. R2-201500049. The Contra Costa County Clean Water Program created a C.3 Guidebook for the implementation of C.3 requirements. As a result of planned drainage treatment features, impacts would be less than significant.