

**COMMUNITY DEVELOPMENT AND PUBLIC SERVICES DEPARTMENT**

**TO:** Chairman Mitchell and Members of the Planning Commission

**SUBMITTED BY:** Stephen Lawton, Community Development Director  
Elizabeth Dunn, AICP, Senior Planner

**MEETING DATE:** July 16, 2001

**SUBJECT:** **AMEND THE ZONING ORDINANCE TO ADOPT THE CENTRAL HERCULES PLAN REGULATING CODE AS CHAPTER 53 OF THE ZONING ORDINANCE AND TITLE 10, CHAPTER 18 OF THE HERCULES MUNICIPAL CODE, ZONING TEXT AMENDMENT NO. 01-01**

**Applicant: Community Development and Public Services Department, City of Hercules, 111 Civic Drive, Hercules, CA 94547**

**Location: See Map**

**1. RECOMMENDATION:**

- a. Open the public hearing and receive testimony;
- b. Close the public hearing;
- c. Request clarification from staff on any issues related to the adoption of the Resolution or environmental determination of the Central Hercules Plan Regulating Code
- d. Adopt a Resolution recommending the City Council adopt an Ordinance to add the Central Hercules Plan Regulating Code to Title 10, Chapter 18, of the Hercules Municipal Code, and amend the Zoning Ordinance to add the Central Hercules Plan Regulating Code as Chapter 53 of the Hercules Zoning Ordinance.

**2. BACKGROUND/DISCUSSION:**

- a. **Project Location and Description of the Site.** The area to be affected by the Central Hercules Plan Regulating Code ("Regulating Code") is approximately 430 acres of land. Approximately 86 acres are developed, are under construction or have improvements on the land; the balance of 344 acres is undeveloped. The Central Hercules Plan consists of four named districts: Waterfront District, the Central Quarter, Hilltown, and Civic Center/Hospitality Corridor. The project area extends to the west and east of San Pablo Avenue and Interstate 80, and is to the north of Sycamore Avenue. Also included in the Plan's area are a small 6.6-acre parcel at the northwest intersection of Hercules and San Pablo Avenues, two parcels of the North Shore Business Park, and the existing PG&E tank

farm. Sycamore Avenue and the John Muir Parkway are to be extended west of San Pablo Avenue, and will generally be the southern and northern boundaries of the Central Hercules Plan area west of San Pablo Avenue. The Hercules Point is included in the Waterfront District of the Plan area. To the east, this area encompasses of the Creekside Shopping Center, the area where the City offices, “The Arbors” senior housing, Chamber of Commerce, and the recently approved residential subdivision being constructed by K&B. The area north of Willow Avenue, between State Route 4 and the BNSF rail line, is also included in the Civic Center/Hospitality Corridor area.

- b. Proposed Amendment to the Zoning Ordinance.** The proposal before the Planning Commission is to amend the City of Hercules Zoning Ordinance to include the Central Hercules Plan Regulating Code as Chapter 53 of the Zoning Ordinance, and Title 10, Chapter 18, of the Hercules Municipal Code. As an amendment to the Zoning Ordinance, the “Regulating Code” must be adopted by Ordinance. The Regulating Code will act as the blueprint for development in the Central Hercules Plan area (see Attachment 1, Central Hercules Plan area map). Development in the rest of the city will continue to fall under the existing regulations of the Zoning Ordinance.

The staff report discusses the intent, changes, phasing, public participation, specific components of the proposed Regulating Code, administration of the proposed Regulating Code, the role of the Planning Commission and the City Council in the review process of future development proposals within the Central Hercules Plan area, and the environmental review process to adopt the proposed Regulating Code.

- 1. Intent of the Regulating Code.** The intent of the Regulating Code of the Central Hercules Plan is to: 1) incorporate a series of design principles to development in a specific area of the city; 2) create a desired geographic and emotional center of town by implementing these design principles; 3) provide criteria for review of the implementation of principles in designs proposed for construction; 4) allow for an intensity of uses where residential and other uses work together nearby; 5) retain the environmental review of a project with the Planning Commission and/or City Council; 6) encourage public participation on the merits of a project; and 7) allow for greater investment certainty on the part of the development community through provision for an accelerated design review process conducted by staff.

The envisioned changes in development patterns for this area of the City were proposed in large part by the citizens and other stakeholders directly interested in Central Hercules. The City, through its Redevelopment Agency, retained the urban design team of Dover, Kohl and Partners to prepare the Regulating Code. An important part of the urban design process was open, public design charrette in June 2000. Citizens, developers, business and land owners, and government agencies were invited and did participate in a series of structured workshops and open design studio sessions. The design consultant then synthesized the public, developer business and civic perspectives together with engineering, traffic, market and housing data into a coherent and realistic build-out plan. The design consultant then crafted the Regulating Code, which would

generate a build-out with the desired characteristics of an interesting pedestrian-oriented urban place, with noticeable green spaces, focused on defined neighborhoods, and supporting an economically vibrant downtown.

2. **Changes proposed by the Regulating Code.** The substantive changes of the proposed Regulating Code address: 1) the development standards of the Zoning District in which a project is located; 2) a series of specific design guidelines for a proposed development; 3) the design and right-of-way specifications of the streets; 4) rules governing the placement of buildings in relation to the street; 5) a list of allowed and conditional uses in the four areas of the Central Hercules Plan; and 6) a method of implementing to replace rigid mathematical formulae.

To clarify how the new process works, we provide a brief discussion highlighting the differences between the current review process and the proposed process to be followed upon application of the proposed Regulating Code.

## **CURRENT PROCESS TO REVIEW APPLICATIONS**

When a developer requests approval to subdivide a piece of property into smaller parcels, whether for residential or commercial use, the City requires the submission of a subdivision map, Planned Development Plan application and supporting materials for review. Submission of a map is a requirement according to the state Subdivision Map Act, and cannot be altered by the Regulating Code. The Planned Development Plan (PDP) is the process the City uses to ensure that specific information is provided for an accurate review of a development proposal. Standard PDP information includes the number of parcels or square footage of floor area ratio (FAR) for a commercial proposal, circulation pattern, survey of the property, proposed land uses, parks or other open space areas, design, areas for parking, and other specific studies on an as-needed basis. Should a map and Planned Unit Development Plan be recommended for approval by the Planning Commission and approved by the City Council, the design of the exterior elevations of the proposal is reviewed by the Planning Commission.

## **PROPOSED PROCESS TO REVIEW DEVELOPMENT PROPOSALS UPON APPLICATION OF THE REGULATING CODE**

The proposed Regulating Code removes the design review component from the Planning Commission and places this responsibility with staff. All other aspects of land use approval -- Variances, Conditional Use Permits, Parcel or Subdivision Maps, Amendments to the Regulating Code, and Policy Determinations -- remain the authority of the Planning Commission and City Council. Staff proposes to retain a Town Architect who can provide additional technical assistance on design issues to staff and the developer, and act as a mediator between staff and the developer. Such mediation may be needed if a developer or applicant does not agree with the staff's determination about compliance with the design review guidelines of the proposed Regulating Code.

Staff also proposes to add an Exception, which would allow a 10% change in the development standards (increasing the height, reducing or increasing the “build-to” designation on a lot, or landscaping, for example). More than a 10% increase would need to be approved as a Variance by the Planning Commission. This exception process is based upon Chapter 45, Minor Exceptions, of the Zoning Ordinance. Under the current process, the Community Development Director can approve, conditionally approve, or deny a request for a minor exception. Additionally, if a minor exception exceeds 10% of the development standard (such as building height, for example), the project must be heard by the Planning Commission. Lastly, staff recommends that the newly created Design Review Subcommittee of the Planning Commission be used as another mediator if the developer does not incorporate the design recommendations of staff and the Town Architect.

- 3. Phase I/Phase II Distinction.** Staff proposes a phased implementation of the Regulating Code and establishing an option to follow the accelerated design review allowed under the proposed Regulating Code. The criterion for designating parcels as Phase I or Phase II is based upon the consistency between the current General Plan designation and the intent of the Regulating Code.

#### Phase I Parcels

For some sites within the CHP area, the land uses envisioned by the Central Hercules Plan (and allowed by the Regulating Code) would be consistent with the current land use designations in the General Plan (see Attachment 2, General Plan map). These sites are considered “Phase I” sites, and development of those sites must conform with the proposed Regulating Code. Phase I sites include, without limitation: all of the Waterfront District (except the Wasterwater Treatment Plant), all of the Central Quarter (except the BART park and ride lot), and the Creekside Shopping Center, proposed Amerisuties Hotel site, Carone 1, K&B 125-lot residential subdivision that is under construction within the Civic Center/Hospitality Corridor (but excludes the Civic Center area, the Williamson property, PG&E, CalTrans, and Carone 3 and 4).

#### Phase II Parcels

For those sites on which the land uses envisioned are not consistent with the General Plan, immediate compliance with the Regulating Code would not be required. That is, development of those “Phase II” sites could proceed, consistent with the existing General Plan and other current land use regulations (see Attachment 2). Should an applicant wish to develop a Phase II parcel according to the Central Hercules Plan and Regulating Code, the applicant would first need to request amendments to the General Plan and Zoning Ordinance. Phase II sites include, without limitation: the Wastewater Treatment Plant, BART park and ride lot, Penterra/Albertson’s sites in the Central Quarter, the entire Hilltown area, and the Civic Center, Williamson property, PG&E, CalTrans, and Carone 3 and 4 in the Civic Center/Hospitality Corridor area.

**Mandatory/Permissive Discussion.** The land uses allowed by the proposed Regulating Code are consistent with the current land use designations in the General Plan on certain sites within the CHP area – the “Phase I” parcels. The provision of the proposed Regulating Code will apply to all land use applications on these parcels. However, on parcels where an inconsistency occurs between the current General Plan land use designation and the uses and intensity of development allowed by the proposed Regulating Code, the property owner may elect to develop the property based upon the current General Plan land use designation. Thus, application of the Regulating Code is at the permissive discretion of the applicant.

Mandatory application of the Regulating Code is not intended to impose new procedures on projects that are under construction (such as, for example, the 125-lot residential development along Sycamore being constructed by K&B), or currently being reviewed (such as, for example, the warehouse proposal on two parcels along San Pablo Avenue at the North Shore Business Park, or the 56-lot residential proposal at Hercules and San Pablo Avenues) or to interfere with any effective current Development Agreements (such as, for example, the Amerisuites Hotel proposal, Penterra site, or the Creekside Shopping Center).

Permissive application means that the applicant has the discretion to adhere to the uses and intensity of development allowed under the Regulating Code. The map entitled “Application of the Central Hercules Plan Regulating Code” indicates that a developer could pursue a discretionary permit (such as a Conditional Use Permit, Variance, Planned Development Plan, Parcel or Subdivision Map) for the zoning designation and allowed uses of those parcels by using the existing Planned Development Plan and/or Design Review process (see Attachment 3, Application of the Central Hercules Plan Regulating Code).

Table 1 summarizes the Phase I/Phase II, Mandatory/Permissive distinction.

**Table 1: Phase I/II, Mandatory/Permissive Distinction**

	<b>Phase I</b>	<b>Phase II</b>
<b>Mandatory</b>	<ul style="list-style-type: none"> <li>➤ Waterfront District</li> <li>➤ Central Quarter</li> <li>➤ North Shore Business Park proposal</li> <li>➤ Proposal at the corner of Hercules and San Pablo Avenues</li> <li>➤ Carone 1</li> </ul>	NOT APPLICABLE
<b>Permissive</b>	<ul style="list-style-type: none"> <li>➤ Creekside Shopping Center</li> <li>➤ K &amp; B</li> <li>➤ Hotel</li> </ul>	<ul style="list-style-type: none"> <li>➤ Wastewater Treatment Plant</li> <li>➤ Penterra and Albertson's properties</li> <li>➤ Civic Center area</li> <li>➤ BART park and ride lot</li> <li>➤ Hilltown, Carone 3 and 4</li> <li>➤ Williamson property</li> <li>➤ PG&amp; E property</li> <li>➤ CalTrans</li> </ul>

**4. Initial Review of Draft Regulating Code, Public Participation, and the Central Hercules Plan staff report.**

We described above the open, public process by which the Plan and corresponding Regulating Code were created in 2000. Since then, staff has been working with Dover, Kohl and Partners since January 2001 to create the proposed Regulating Code. In March 2001, at a meeting to discuss the proposed Regulating Code, a draft version of this document was provided to the Planning Commission and City Council, property owners affected by the proposed Regulating Code, and the development community. Providing shared parking was the issue that generated the most response from the development community. To respond to this aspect of site planning, a hybrid approach – of establishing a formula of a certain number of parking spaces according to the use, as well as submission of a parking analysis by the developer -- has been prepared for the proposed Regulating Code.

Two joint meetings were held with the Planning Commission and City Council in April 2001 to discuss the Regulating Code. Discussion focused on allocating uses in the four districts as either Allowed, requiring a Conditional Use Permit, or Prohibited. All changes recommended by the City Council and Planning Commission have been incorporated in the July 16, 2001 version of the Regulating Code.

## **Public Participation**

At a joint meeting with the City Council and Planning Commission in June 2001, staff was reminded to keep the public informed of potential development proposals in the Central Hercules Plan area. It has been suggested that a sign be placed on the property where a development proposal may occur. Additionally, has included the requirement to submit a digital image of the site plan, all exterior elevations, and relevant components of a development proposal to be posted on the City's website. Both of these suggestions have been incorporated into the Submission Requirements for applications submitted in the Central Hercules Plan area.

## **Central Hercules Plan staff report**

A staff report discussing the community meetings in May and June 2000 about the "Central Hercules Plan" (CHP) was created. It was initially presented to staff in December 2000 in a draft form. A final version of the staff report on the Plan will be available as a background document. While the staff report on the Plan has no official status, it serves as an advisory document to staff and decision-makers. The Regulating Code is the document proposed to have the legal force to implement the guiding principles of the staff report.

5. **Components of the Regulating Code.** The Regulating Code is comprised of nine chapters: 1. Intent and How to Use This Code; 2. Palette of Street Types; 3. Project Facade Elements; 4. Architectural Regulations; 5. Allowed Use v. Conditional Use Permit Table; 6. General Provisions; 7. Administration of the Regulating Code; 8. Definitions; and 9. Additional References (see Attachment 4, Regulating Code of the Central Hercules Plan). A brief description of the key concepts of the proposed Regulating Code are discussed below.

## **Palette of Street Types**

The Palette of Street Types illustrates the eight different types of streets, discusses the widths of the public right-of-way (including travel lanes, on-street parking, sidewalk, and, where appropriate, medians), and establishes the placement of buildings in relation to the street. Instead of using setbacks (a certain distance away from the property line) to place buildings along a block face, the proposed Regulating Code uses a "build-to line", bringing the building closer to the street and property line. Colonnades and porches may be allowed to intrude into this "build-to" area as indicated. Street furniture and street trees are also specified. Officials of the Rodeo-Hercules Fire District have reviewed and commented upon the street sections. Table 2 illustrates the build-to line distances for residential and commercial and/mixed use buildings anticipated by the proposed Regulating Code.

**Table 2: Build-To Distances from the Property Line**

	<b>Commercial</b>	<b>Residential</b>
<b>Front</b>	0 - 10'	0 -10'
<b>Side</b>	6' if attached 10' if detached	6' if attached 15' if detached
<b>Rear</b>	Not required	Not required

**Architectural Regulations**

The Regulating Code does not prescribe architectural styles. Rather, it prescribes a small set of elements, lists allowed and prohibited materials, and locations of signs, for example, as basic design parameters, but never states that these elements should be presented only in a Brownstone, Tudor, or Modern style. The intent is to have a variety of styles, and have the structures appear as if they have evolved over time, rather than look as if a new area has been created with one architectural theme.

**Allowed and Conditional Uses**

Two joint meetings were held with the Planning Commission and City Council in April 2001 to discuss the Regulating Code, and rank uses as either Allowed, requiring a Conditional Use Permit, or Prohibited within each of the four neighborhoods of the area. With respect to the envisioned Hilltown neighborhood, and certain select parcels in the Waterfront District and Civic Center/Hospitality Corridor, the Use Table would apply only after a General Plan Amendment and Rezoning application were to be processed. Only industrial uses are currently allowed in the Hilltown area because of its Industrial Zoning District and General Plan land use designation. In the Waterfront District and Civic Center/Hospitality Corridor, the Public-City designation would need to be amended. Additionally, certain select parcels with the General Commercial designation of the Civic Center/Hospitality Corridor would need to be amended.

At the April 24, 2001 joint meeting between the City Council and Planning Commission, it was requested that the distinction between wine shops and liquor stores be clarified, and that bike lockers be added to the use list. In reviewing the zoning ordinances from twenty-four (24) cities in the Bay Area (including Sonoma and Napa Counties, and cities within these counties), staff has not been able to find any distinction between wine shops and liquor stores. Additionally, staff has not been able to locate any criteria about establishing bike lockers. Staff will continue to review the available literature to locate this information, but has not included either of these uses in the proposed table of Allowed and Conditional Uses.

The City Council and Planning Commission should also note that since the April 24, 2001 meeting, staff has added secondary or carriage units, and live/work units under the Residential Uses categories. These uses are allowed in the approved Waterfront District



Master Plan. So that there is consistency between the intent of the proposed Regulating Code and the Waterfront District Master Plan, staff applied the allowed or conditional designation for single-or-multi-family residential uses to secondary/carriage and live/work units. Staff has also added a library as an allowed use in all districts under the Public/Civic Uses category. Lastly, mortuary/columbaria/cemetery has been added as a conditional use in all districts to the Commercial/Service/Retail Uses category of the table. These last two changes were made so the proposed use table corresponds with the variety of allowed and conditional uses in the commercial, residential, and mixed uses zones as described of the Zoning Ordinance. With these exceptions, all other changes recommended by the City Council and Planning Commission have been incorporated in the July 16, 2001 version of the Regulating Code.

Staff has also prepared a series of findings – reasons why and how a project can be approved - for Amendments to the Regulating Code, Conditional Use Permits, Design Review, Exceptions, and Variances. The General Conditional Use Permit findings used in the Regulating Code is from the City's Zoning Ordinance, as are the findings for Exceptions, Design Review, and Variances. Where there are specific uses, such as, for example, tobacco uses, specific findings have been included. Definitions have been prepared to create a distinction between certain uses (coin dealers and pawn brokers, for example), although no definitions have been prepared for uses that have a general understanding (such as, for example, hair salon or residential uses). It should be stated, however, that neither the list of uses, additional findings or definitions is exhaustive. Staff recommends that when additional findings are required, on a case-by-case basis, these be brought before the Planning Commission and City Council as part of the project review. If a new use is approved, the proposed Regulating Code would then be revised to reflect the new use, findings, and definition for the use.

### **Implementation of the Regulating Code**

At the July 2, 2001 meeting of the Planning Commission, a Design Review Subcommittee was established, and two Planning Commissioners were appointed to this subcommittee. This subcommittee will act as an informal appeal body should a design review proposal not be approved by either staff or the Town Architect. If the staff, Town Architect, and Planning Commission Design Review Subcommittee cannot reach a decision on a design review, the full Planning Commission will hear a formal appeal.

### **6. Administration of the Regulating Code and the Role of the Planning Commission and City Council.**

In the two joint meetings with the Planning Commission and City Council, the proposed process for reviewing projects using the guidelines of the Regulating Code has been discussed. Both the Planning Commission and the City Council have been concerned that public participation is not reduced by the new review process. The new process for project approval under the Central Hercules Plan and Regulating Code does not reduce

the opportunity for the public to be heard on the merits of a project. The new process does provide for a heightened level of professional scrutiny on the urban design aspects of a proposal. Furthermore, as the Planning Commission and/or City Council will be determining the appropriate level of environmental review for a proposal, the City will continue following our standard notification procedure, and place the public on timely notice of upcoming project decisions. Our procedure is to place a notice in the West County Times, and to mail notices to property owners within 300 feet of a development proposal. Additionally, the submittal requirements of the proposed Regulating Code state that at least one temporary sign of 3'x 5' shall be placed on the project site in a prominent location to announce that a development proposal has been submitted to the City. This sign shall state where plans can be reviewed. Additionally, all exterior elevations, and a site plan must be submitted in a computer format that can be posted on the City's website. This will allow residents the additional flexibility to review the design of a proposal if their schedules will not allow them to come to the City offices during the day.

Staff needs clarification from the Planning Commission on several key points regarding the incorporation of public comments on the design of a proposed project. Specific issues include:

- ⇒ when a sign is sign posted on the project site – is it at the time of the application to staff or once the design review has been approved
- ⇒ what comments are to be solicited from the public – only design; on the merits of the proposal; or both concerns
- ⇒ what level of specific information needs to appear on the sign

The proposed Review Process of the Regulating Code has been presented in previous meetings to both the Planning Commission and City Council. This process, as illustrated in Table 3, has one change: the addition of Parcel and Subdivision Maps.

Again, staff is requesting clarification from the Planning Commission on the issue of approving parcel and subdivision maps. At a Spring 2001 meeting of the Planning Commission, proposed revisions to the existing Subdivision Ordinance were discussed. Staff is proposing that parcel maps, where four or fewer new parcels would be created, would be reviewed and approved by staff. The Planning Commission would review and approve subdivision maps, where five or more new parcels would be created. It is this new process that is listed in Table 3 below. An appeal would bring the approved map to the next decision-making body. Currently, staff recommends both parcel and subdivision maps to the Planning Commission and the City Council approves both parcel and subdivision maps. These revisions to the Subdivision Ordinance have not received a formal recommendation by the Planning Commission, and City Council. If the Planning Commission feels that it would support the proposed review process for parcel and subdivision maps, staff suggests that the proposed review process in Table 3 remain as presented.

**Table 3: Proposed Review Process of the Regulating Code**

	Level of Review				
	Staff		Planning Commission		City Council
		Town Architect (TA)	Design Review Subcommittee (PCDRS)		
Exception	Approve	Recommend	Information + Appeal	Information + Appeal	Information + Appeal
Design Review	Approve	Appeal	Information + Appeal	Information + Appeal	Information + Appeal
Conditional Use Permit	Recommend			Approve	Appeal
Variance	Recommend			Approve	Appeal
Parcel Maps	Approve			Appeal	Appeal
Subdivision Maps	Recommend			Approve	Appeal
Amendment	Recommend			Recommend	Approve
Policy Determination	Recommend			Recommend	Approve

- c. **General Plan Designations and Conformance.** Some parcels in the Central Hercules Plan area could not be developed with the intensity of uses as contemplated in the proposed Regulating Code because of their existing General Plan land use designations. These properties may be developed under the current General Plan land use designation, or may be developed using the principles of the proposed Regulating Code at the discretion of the applicant. Should a developer choose to apply the Regulating Code to the property, a General Plan Amendment and Rezoning process would have to be a component of the entitlement process to develop the property. For parcels that have a General Plan land use designation that is consistent with the proposed Regulating Code, no General Plan Amendment or Rezoning is required. The applicant may need other entitlements (Conditional Use Permit, Variance, Parcel or Subdivision Map), however, and is not released from the need to secure any combination of these approvals.

- d. **Environmental Determination.** Section 15368(1) of the California Environmental Quality Act (CEQA) defines a project as, “an activity directly undertaken by any public agency including but not limited to public works construction and related activities, clearing or grading of land, improvements to existing public structures, enactment and amendment of zoning ordinances, and the adoption and amendment of local General Plans or elements thereof pursuant to Government code Sections 65100-65700”. The amendment of the Zoning Ordinance is considered to be a project and an environmental review has been conducted.

In 1996, the City Council adopted “The 1995 City of Hercules General Plan Land Use and Circulation Elements Update and Redevelopment Plan Amendments” as a Program Environmental Impact Report (EIR) pursuant to Section 15168 of the California Environmental Quality Act (CEQA). This EIR did not focus upon a project specific or series of project specific impacts as a result of a development proposal or series of development proposals. This EIR did focus upon the effects of development made possible and anticipated by changes in land use designations on twenty-four (24) parcels within the City of Hercules. The area subject to this 1996 action is depicted on Attachment 5, Parcel Locations of the 1996 General Plan Land Use and Circulation Elements Update and Redevelopment Plan Amendments. The land use changes brought the Zoning District and General Plan into consistency. The proposed amendment of the Regulating Code into the Hercules Municipal Code and Zoning Ordinance does not change any existing General Plan land use designations. An Environmental Impact Report was prepared for the Hercules Redevelopment Plan in February 1999. A series of additional mitigation measures were assigned for future potential development in the Redevelopment Area as a result of this EIR.

Pursuant to Section 15164 of the California Environmental Quality Act (CEQA) Guidelines, an Addendum to the 1995 General Plan EIR has been prepared which addresses the proposed amendment of the Hercules Municipal Code and Zoning Ordinance to adopt the Regulating Code. The Addendum, consisting of the Initial Study Checklist and a Mitigated Negative Declaration, indicates that potentially significant effects have been adequately analyzed in two earlier Environmental Impact Reports. However, upon the environmental review to adopt the Regulating Code, it was determined that three additional mitigation measures must be added (Aesthetic - Light and Glare, Biological Resources - Access to Natural Areas, and Biological Resources - Wildlife Movement Corridors), and two mitigation measures from the Hercules Redevelopment Plan EIR (Air Quality - Odors, and Cultural Resources - Paleontological Resources) are applied to the entire Central Hercules Plan area. Based upon this analysis, staff believes that amending the Hercules Municipal Code and Zoning Ordinance to adopt the Regulating Code will not require the preparation of additional environmental documentation to the previously adopted EIRs. Therefore, adoption of the proposed Regulating Code adheres to the provision of 15164 of the CEQA Guidelines, and an Addendum has been prepared. No recirculation or posting of the Addendum is required pursuant to Section 15162 and 15164 of the CEQA Guidelines.

**e. Current Land Uses and Zoning Designations**

**Existing *General Plan* Designations:** Designations for the four areas identified in the proposed Code are as follows:

<b>Waterfront District</b>	<b>Central Quarter</b>	<b>Hospitality Corridor</b>	<b>Hilltown</b>
Multi-Family Low Density	Multi-Family Low Density		
Multi-Family Medium Density			
General Commercial	General Commercial	General Commercial	
Waterfront Commercial	Commercial - Public	Community Commercial	
Historic Town Center			
			Industrial
Industrial Residential			
Planned Office – Research and Development	Planned Office – Research and Development		
Planned Commercial Residential	Planned Commercial Residential	Planned Commercial Residential	
Public – Open Space	Public – Open Space	Public – Open Space	
Public - City		Public – City	

The *General Plan* also applies Special Study Area designations to certain areas within the Waterfront Quarter: Special Study Area No. 1, Mixed Use Planned Development, and Special Study Area No. 2, Residential Planned Development.

**Existing Zoning:** Zoning designations for the four areas identified in the proposed Code are as follows:

<b>Waterfront Quarter</b>	<b>Central Quarter</b>	<b>Hospitality Corridor</b>	<b>Hilltown</b>
RM-L: Residential Multi-Family Low Density	RM-L: Residential Multi-Family Low Density		
RM-M: Residential Multi-Family Medium Density			
CG: General Commercial	CG: General Commercial	CG: General Commercial	
WC: Waterfront Commercial	CP: Commercial – Public	CC: Community Commercial	
HTC: Historic Town Center			
			I: Industrial
IR: Industrial Residential			
PO/RD: Planned Office – Research and Development	PO/RD: Planned Office – Research and Development		
PC-R: Planned Commercial Residential	PC-R: Planned Commercial Residential	PC-R: Planned Commercial Residential	
P/QP-OS: Public/Quasi- Public Open Space	P/QP-OS: Public/Quasi-Public Open Space	P/QP-OS: Public/Quasi-Public Open Space	
P/QP-C: Public/Quasi- Public City		P/QP-C: Public/Quasi-Public City	

**f. Property History.**

The history of ownership and development on the various parcels in this large area is extensive and will not be completely presented here. Generally, the parcels in this undeveloped portion of the City were not developed due to difficult physical conditions. In contrast to parcels created for the existing residential area, the lands in the Central Hercules Plan area present conditions such as wetlands, industrial contamination, irregularly shaped ownerships, easements and the presence of protected plant or animal species. Often such conditions are present in combination. Consequently, the level of urbanization otherwise seen in the region has not yet occurred in the Central Hercules Plan area. Numerous proposals and development plans now exist for properties in the Central Hercules Plan area. The major activities of significance include:

- ➔ A complete Waterfront neighborhood consisting of residential, commercial, transportation and mixed-use buildings by the master developer, Bixby Company. The plan for this neighborhood, similar in type to the Central Hercules Plan, was approved by the Council on July 25, 2000.
- ➔ Soils remediation and creek restoration project by Remediation Financial, Inc.
- ➔ Redevelopment Agency assistance to the Hercules Hotel Development Group for the construction of a hotel complex.
- ➔ Construction of a residential subdivision by K&B homes.
- ➔ Nearby, but outside the Central Hercules Plan area, Redevelopment Agency assistant for the demolition of an oil refinery and construction of an 880-unit master-planned conventional suburban residential development by a unit of Catellus.

**3. FUTURE SUBMITTALS**

Current development projects are underway within the Waterfront District and at the intersection of Hercules and San Pablo Avenues of the Central Hercules Plan area. It is expected that additional development proposals will be submitted upon the adoption of the Central Hercules Plan Regulating Code.

As an amendment to the Zoning Ordinance, the proposed Regulating Code must be adopted by an Ordinance. The first reading of the Ordinance will be held on July 17, 2001 before a special meeting of the City Council, with the second reading of the Ordinance to be held at the City Council's regular meeting date of July 24, 2001. Should the City Council approve the Ordinance to adopt the Regulating Code, the provisions of the Regulating Code go into effect on August 24, 2001, 30 days after adopting the Ordinance.

#### **4. ATTACHMENTS:**

1. Central Hercules Plan area
2. General Plan map
3. Application of the Central Hercules Plan Regulating Code
4. Regulating Code of the Central Hercules Plan
5. Parcel Locations of the 1996 General Plan Land Use and Circulation Elements Update and Redevelopment Plan Amendments
6. Initial Study Checklist and Mitigated Negative Declaration

#### **5. EXHIBITS**

- a. EXHIBIT A: Conditions of Approval
- b. EXHIBIT B: Findings with Facts  
B-1: Zoning Text Amendment No. 01-01
- c. EXHIBIT C: Resolution  
C-1: Zoning Text Amendment No. 01-01

ED:\my documents\Central Hercules Plan\071601 CHP PC Staff Report.doc



**EXHIBIT A:  
CONDITIONS OF APPROVAL FOR  
ZONING TEXT AMENDMENT NO. 01-01**

**SPECIAL CONDITIONS**

1. The land affected by the Regulating Code is only that area depicted in the buildout map of the Central Hercules Plan.
2. All future potential development proposals must comply with the following Mitigation Measures as discussed within the Initial Study and Mitigated Negative Declaration for the Central Hercules Plan Regulating Code:

**a. Aesthetics: Light and Glare (1d)**

For all uses within the Central Hercules Plan that involve high-intensity lighting, the City shall require the developer to meet a performance standard of no increase in lighting spillover into adjacent “light-sensitive” areas (i.e., residential, natural open space). This performance standard shall be met at the boundary lines of the nearest sensitive uses. Measures to be implemented may include, but would not be limited to, landscaping, fencing and/or berms; use of light fixtures that minimize glare and spillover; placement and direction of lighting to minimize the impact; and prohibition of lighting in certain areas.

**b. Air Quality: Odors (3d)**

For all sites within the CHP area, the City of Hercules shall require that appropriate buffer zones as required by the Bay Area Air Quality Management District (BAAQMD) be established if odor-emitting facilities are proposed adjacent to existing or future sensitive receptors.

**c. Biological Resources: Access to Natural Areas (4a)**

The City shall add language to prohibit access to the recently restored wetland areas from any future potential development. One means of achieving this goal is to provide for fencing along any streets or property boundaries that abut natural areas.

**d. Biological Resources: Wildlife Movement Corridors (4d)**

Individual projects within the Central Hercules Plan area shall conduct a biological assessment of the project area to determine the presence or absence of the California red-legged frog. Project applicants shall consult with the City of Hercules, U.S. Fish and Wildlife Service, and the California Department of Fish and Game. Typical mitigation measures for impacts to wildlife corridors would include: protocol surveys; avoidance; habitat restoration; and development of a habitat conservation plan.

**e. Cultural Resources: Paleontological Resources (5a)**

The following mitigation measures would provide for construction monitoring and collection and evaluation of fossil material found. Implementation of these measures would reduce potential impacts to a less-than-significant level. The City shall condition approval of individual development proposals on the following paleontological resources mitigation program.

- The project developer shall retain a qualified project paleontologist and paleontological monitor(s) to conduct monitoring during earthmoving activities. A minimum of one monitor per heavy equipment work area shall be used. The project paleontologist must supervise the monitor(s) in the field and bear the responsibility of evaluation of fossil finds. A time- and cost-saving strategy would be to hire a project paleontologist qualified to simultaneously monitor and evaluate any exposed fossil materials.
- Full-time monitoring shall be conducted during earthmoving activities within high-sensitivity geologic units. Monitoring is not required for earthwork conducted in geologic units that have been evaluated by a qualified paleontologist and determined to be of low sensitivity, or for earthwork that involves previously disturbed materials only (and does not extend into undisturbed geologic units).
- The project paleontologist shall attend the pre-grading meeting to discuss monitoring, collecting, and safety procedures for the project.
- The project paleontologist and paleontological monitor(s) shall have the authority to temporarily divert or redirect grading to allow time to evaluate any exposed fossil material. "Temporary" shall be two working days for the evaluation process.
- During monitoring and salvage, any scientifically significant specimens shall be properly collected after evaluation by, and under the supervision of, the project paleontologist. During collecting activities, contextual stratigraphic data shall be collected. The data will include lithologic descriptions, photographs, measured stratigraphic sections, and field notes.
- Scientifically significant specimens shall be prepared to the point of identification (not exhibition), stabilized, identified, and offered for curation to a suitable repository that has a retrievable storage system, such as the University of California, Berkeley, Museum of Paleontology.
- The project paleontologist shall prepare a final report at the end of the earthmoving activities; the report shall include an itemized inventory of recovered fossils and appropriate stratigraphic and locality data. The project paleontologist shall send one copy of the report to the City of Hercules; another copy should accompany any fossils, along with field logs and photographs, to the designated repository.

3. Approval of the Central Hercules Plan Regulating Code does not automatically approve future potential development proposals. Any and all applicants must also obtain an approval and the appropriate entitlement from the decision making body (either the Planning Commission or City Council) in order to proceed with a development proposal.
4. All other relevant standard conditions of approval for any future potential development project will apply.

**EXHIBIT B-1**  
**FINDINGS WITH FACTS**  
**ZONING TEXT AMENDMENT NO. 01-01**

Title 10, Article 15 of the Hercules Municipal Code and Chapter 52, Zoning Amendments, of the Hercules Zoning Ordinance requires that findings with facts be made by the Planning Commission in order to recommend approval to the City Council of an amendment to the Hercules Municipal Code, and Zoning Ordinance:

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

**FACT:** The proposed Regulating Code will apply to all land use applications on these parcels within the Central Hercules Plan area. However, on parcels where an inconsistency occurs between the current General Plan land use designation and the uses and intensity of development allowed by the proposed Regulating Code, the property owner may elect to develop the property based upon the current General Plan land use designation.

The proposed phasing of the application of the Regulating Code does not prevent or preclude development on parcels within the Central Hercules Plan area where the zoning would allow a use that is not contemplated by the Regulating Code. The developer can choose to apply the Regulating Code to the property and pursue the necessary entitlements to adhere to the Regulatory Code, or not apply the Regulating Code, and follow the zoning district designation for that property.

**FINDING NO. 2:** The proposed amendment would not be detrimental to the health, safety welfare, and public interest of the City.

**FACT:** Approval of Zoning Amendment No. 01-01 would allow the orderly development of properties within the Central Hercules Plan area upon the application of the Regulating Code. The Regulating Code contains development standards, works in conjunction with existing building, plumbing, mechanical, and electrical codes, and requires environmental review for all development proposals.

**FINDING NO. 3:** The proposed amendment is internally consistent and does not conflict with the purposes, regulations, and required findings of the Zoning Ordinance.

**FACT:** The uses listed in the Allowed and Conditional Uses Table of the Regulating Code do not conflict with the uses allowed within the Planned Commercial

Residential (PC-R), Planned Office-Research and Development (PO/RD), Residential Multi-Family Low Density (RM-L), Residential Multi-Family Medium Density (RM-M), Waterfront Commercial (WC), General, Community, or Recreational Commercial (CG, CC, and CC), Historic Town Center (HTC), Industrial (I), Industrial Residential (IR), Public/Quasi-Public Open Space (P/QS-OS), or Public/Quasi-Public City (P/QP-C) zoning districts.

The proposed phasing of the application of the Regulating Code does not prevent or preclude development on parcels within the Central Hercules Plan area where the zoning would allow a use that is not contemplated by the Regulating Code. The developer can choose to apply the Regulating Code to the property and pursue the necessary entitlements to adhere to the Regulatory Code, or not apply the Regulating Code, and follow the zoning district designation for that property.

**EXHIBIT C-1**  
**RESOLUTION NO. 01-\_\_\_\_\_**  
**ZONING TEXT AMENDMENT NO. 01-01**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERCULES RECOMMENDING APPROVAL TO THE CITY COUNCIL TO ADD THE CENTRAL HERCULES PLAN REGULATING CODE TO TITLE 10, CHAPTER 18, OF THE HERCULES MUNICIPAL CODE, AND AMEND THE ZONING ORDINANCE TO ADD THE CENTRAL HERCULES PLAN REGULATING CODE AS CHAPTER 53 OF THE ZONING ORDINANCE. THIS AFFECTS ONLY THE AREA ILLUSTRATED ON THE CENTRAL HERCULES PLAN AREA MAP IN THE CITY OF HERCULES, AND SUBJECT TO CERTAIN CONDITIONS BASED ON FINDINGS WITH FACTS. APPLIED FOR BY THE CITY OF HERCULES, COMMUNITY DEVELOPMENT AND PUBLIC SERVICES DEPARTMENT, 111 CIVIC DRIVE, HERCULES, CA 94547.**

WHEREAS, the Planning Commission of the City of Hercules has considered an application to amend the Zoning Ordinance, Zoning Text Amendment No. 01-01, filed by the City of Hercules, Community Development and Public Services Department, on 10-1.1501 through 10-1.1508 of the Hercules Municipal Code, and Chapter 52, Zoning Amendments, of the City of Hercules Zoning Ordinance; and

WHEREAS, in accordance with the California Environmental Quality Act, the City Council previously adopted an Environmental Impact Report for the General Plan Land Use and Transportation Elements in 1996, and Hercules Redevelopment Plan Environmental Impact Report for areas that are contained within the Central Hercules Plan area;

WHEREAS, the previous environmental review indicated that significant environmental impacts have been adequately analyzed in the 1995 City of Hercules General Plan Land Use and Circulation Elements Update and Redevelopment Plan Amendments and the Hercules Redevelopment Plan Environmental Impact Reports (EIR);

WHEREAS, Pursuant to Section 15164 of the California Environmental Quality Act (CEQA) Guidelines, an Addendum to the 1995 General Plan EIR has been prepared which addresses the amendment of the Zoning Ordinance to adopt the proposed Regulating Code as Chapter 53 of the Zoning Ordinance. The Addendum, consisting of the Initial Study Checklist and a Mitigated Negative Declaration, indicates that potentially significant affects have been adequately analyzed in an earlier Environmental Impact Report. However, upon the environmental review to adopt the Regulating Code, it was determined that three additional mitigation measures must be added, and two mitigation measures from the Hercules Redevelopment Plan EIR have been applied to the entire Central Hercules Plan area. These mitigation measures reduce any potential significant change to the environment, and precludes requiring additional studies; and

**WHEREAS**, the Planning Commission finds, after due study, deliberation and public hearing, that the following circumstances exist:

- a. The proposed amendment is consistent with the General Plan.
- b. The proposed amendment would not be detrimental to the health, safety welfare, and public interest of the City.
- c. The proposed amendment is internally consistent and does not conflict with the purposes, regulations, and required findings of the Zoning Ordinance.

**WHEREAS**, the Planning Commission finds that the applicant agrees with the necessity of and accepts all elements, requirements and conditions of this resolution as being a reasonable manner of preserving, protecting, providing for, and fostering the health, safety, and welfare of the citizenry in general and the persons who work, visit or live in this development in particular; and

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Commission of the City of Hercules that the Planning Commission hereby recommends to the City Council approval of the Zoning Text Amendment No. 01-01 to amend the Zoning Ordinance to add the Regulating Code as Chapter 53 of the Hercules Zoning Ordinance, and add the Regulating Code as Title 10, Chapter 18 of the Hercules Municipal Code, subject to the attached conditions of approval and mitigation measures listed in Exhibit A, based on Findings with Facts contained in Exhibit B, as described in Exhibit C, the Central Hercules Plan Regulating Code, and as illustrated in Exhibit D, the map for the Central Hercules Plan area, and the map illustrating the phasing of the Regulating Code entitled "Application of Central Hercules Plan Regulating Code".

The foregoing Resolution was duly and regularly adopted at a regular meeting of the Planning Commission of the City of Hercules held on the sixteenth day of July, 2001 by the following vote of the Commission:

AYES:

NOES:

ABSTAIN:

ABSENT:

---

Richard Mitchell, Chairman, 2001

ATTEST:

---

Gigi McCleave, Planning Secretary

