
8. CULTURAL AND HISTORIC RESOURCES

This EIR chapter describes existing and potential cultural, historic, and paleontological resources in the project site vicinity, the potential impacts of the proposed project on those resources, and mitigation measures recommended to minimize those potential impacts.

8.1 SETTING

8.1.1 Cultural and Historic Resources

(a) Prehistoric Background. In the northwest portion of Contra Costa County, prehistoric sites are generally found near the edge of historic bay margins, on valley and midslope terraces, and in hilly areas on terraces near seasonal watercourses. Continual occupation of the bay margins in this area of Contra Costa County has yielded numerous aboriginal village and camp sites. A combination of bay shellfish and fish resources and the presence of an environment that attracted both wildlife and birds made these locations attractive as living areas.¹

(b) Known Archaeological Resources in the Project Site Vicinity. In 2000, Holman & Associates conducted an evaluation of the potential archaeological resources within the entire 167-acre Waterfront District, which includes the project site. The Holman report initially identified one recorded prehistoric site, CA-Cco-370, within the Central Neighborhood (Promenade),² but mechanical auguring at the recorded location failed to yield any subsurface traces of the site, and Holman concluded that Site CA-Cco-370 is not at its recorded location.³ However, the Holman report identified other potential prehistoric archaeological resources in the vicinity of Waterfront District. The Holman report and a supplemental letter are available for review at the City of Hercules City Clerk, 111 Civic Drive.

(c) On-Site Historic Resources. Located within the Pinole land grant, Hercules was established in the late 1800s as a company town of the Hercules Powder Company. The project site is located on a portion of the 1,300-acre Hercules Powder Company property. In 1977, the City commissioned an architectural evaluation of the Hercules Powder Company buildings and Victorian-style company homes. This evaluation found the former plant equipment and manufacturing structures related to former industrial sites not to be worthy of

¹City of Hercules, *Hercules General Plan, Open Space/Conservation Element*, approved by the City Council on September 22, 1998, pages V-14 and V-15.

²Holman & Associates, *An Evaluation of Potential Archaeological Resources within the Bixby Development Project Site, Hercules, Contra Costa County, California*, February 2000.

³Letter from Miley Paul Holman, Holman & Associates, to Arlyn Purcell, Impact Sciences, re. "Mechanical Subsurface Testing at the Recorded Location of CCO-370, Bixby Property, Hercules, Contra Costa County, California," March 29, 2000.

inclusion in the district, but did identify thirty-seven buildings and one structure from the original plant with historical value.

Based on the findings of the 1977 study, the City submitted a nomination to place the plant village on the National Register of Historic Places.

The National Register Nomination for the Hercules Village Historic District was comprised of 37 buildings and one structure from the original plan. These 37 buildings and the one structure were nominated as buildings and sites contributing to the character of the district. The Hercules Village Historic District was listed on the National Register of Historic Places on August 22, 1980.¹

In accordance with the listing of the District on the National Register, the City designated buildings that would be considered for conservation or demolition by the establishment of the Historical Overlay District (Chapter 20 of the Zoning Ordinance). A portion of the project site (roughly Blocks A, C1, and C2) is contained within the boundaries of the H--Historical Overlay District.

Because it is on the National Register, the Hercules Village Historic District is considered a significant historic resource as defined in Section 15064.5 of the CEQA Guidelines. Of the 37 buildings contained within the district, two currently exist within the boundaries of the project site. These two buildings are the Hercules Powder Company Administrative Building and the Clubhouse, which are located at the top of the hill in the Bowl Area along Railroad Avenue and Main Street.

These two existing buildings are listed as contributors to the National Register and are considered to be essential contributing buildings to the existing historic district. In addition, the former Administrative Building, no longer in operation, is also listed individually on the National Register of Historic Places. Both buildings are also listed in the 1998 Hercules General Plan EIR as local historical resources. As part of the Hercules Bayfront Project, these two structures are proposed to be renovated and adaptively reused in their current locations.

(d) Historic Background and Resources. The Hercules Powder Company began in 1879 as the "Hercules Plant Site" of the California Powder Works. Hercules was established in the late 1800s as a company town of the California Powder Works. The Town of Hercules was incorporated in 1900.

In 1912, the Hercules Powder Company, eventually known as Hercules, Inc., purchased the California Power Works Hercules Plant. By that time, the plant had become the nation's largest producer of TNT, supplying World War I era explosives to Great Britain, France and Russia before the United States entered the war. At the height of the plant operation, the company's local land holdings totaled approximately 3,000 acres.

The Hercules powder plant operation continued for another 50 years until 1964 when production of fertilizer replaced production of dynamite and black powder. In 1974, the fertilizer operation ceased and Hercules, Inc., began selling the plant property to developers. At the time (1974), the Town of Hercules had approximately 150 residents.

¹ National Register of Historic Places, California, Contra Costa County, #80000799.

The Hercules Water Company was locally established in 1902 to supply water to the area between San Pablo and Rodeo. The Hercules Water Company continued to operate until 1953 when it became a part of East Bay Municipal Utility District.

In 1975, construction of new housing began in the area of Hercules east of I-80, marking the beginning of the "new Hercules." In 1978, Hercules, Inc., sold all of its remaining Hercules plant property to development entities.

Development of housing in Hercules, coupled with growth in the unincorporated area of Rodeo and the City of Pinole, ultimately combined in the 1970s and 1980s to make West Contra Costa County one of the fastest growing areas of the Bay Region. By 1993, the number of residents in Hercules had grown to 18,618. The City had developed over this period as a planned community and extension of a West County urbanized area served by major transportation and utility systems. Today (2010) Hercules exists as a modern suburban residential community with approximately 25,300 residents, five convenience shopping centers, and one employment center.

8.1.2 Paleontological Resources

Paleontological resources are defined as fossilized remains of plants and animals, and associated deposits. The geologic characteristics of an area help to determine its sensitivity for paleontological resources.

The City-certified Hercules General Plan Update EIR did not identify any General Plan buildout impacts on paleontological resources, and no paleontological or unique geologic features have been recorded on the project site according to the more recent City-adopted October 2004 Bayfront Boulevard Live-Work and Mixed-Use Project Initial Study/Mitigated Negative Declaration. However, recent studies conducted for another project in Hercules have indicated that geologic units found in the region--the San Pablo Formation and the Montezuma Formation--have been known to contain scientifically significant fossils. According to the geotechnical report prepared for the entire 167-acre Waterfront District, portions of the current project site are underlain by the Montezuma Formation.¹

Pursuant to State Department of Toxic Substances Control (DTSC) environmental clean-up oversight activity, portions of the project site vicinity were over-excavated in 2001 as part of the Central Neighborhood (Promenade), Refugio Neighborhood (Baywood), and The Village grading permits. The over-excavation included removal of soft compressible Young Bay Mud, compressible colluvial deposits, and uncontrolled existing fill, and placement of engineered fill and surcharge fills. All compressible Bay mud and colluvium were removed. No paleontological or archaeological resources were discovered during this extensive recent excavation and grading activity.

¹Engeo Incorporated, Preliminary Geotechnical Investigation, Hercules Property Inc. Site, Hercules, California, May 19, 1999, page 9 and Figure 2.

8.2 PERTINENT PLANS AND POLICIES

CEQA requires an EIR to identify the plan and policy setting within which the project is proposed and discuss any inconsistencies between the proposed project and these applicable plans and policies (CEQA Guidelines section 15125[d]). CEQA also indicates that this plan and policy consistency discussion should be limited to the context of evaluation and review of environmental impacts (CEQA Guidelines section 15124[b]).

Federal and state jurisdictional agencies and the City of Hercules have developed laws and regulations designed to protect significant cultural and historic resources that may be affected by actions that they undertake or regulate. The National Historic Preservation Act (NHPA) and CEQA are the basic federal and state laws governing preservation of archaeological and historic resources of national, regional, state, and local significance. The City of Hercules General Plan (including the WDMP as amended by the Initiative) is the basic local policy document addressing the protection of cultural and/or historic resources in Hercules. These federal, state and local provisions are further described below.

8.2.1 Federal Laws and Regulations

(a) The Secretary of the Interior's Standards. The U.S. Secretary of the Interior is responsible for establishing standards for the preservation and protection of buildings and other cultural resources eligible for listing in the National Register of Historic Places. The Secretary of the Interior's *Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings* and *Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* outline specific standards and guidelines for the preservation, rehabilitation, restoration, and reconstruction of designated historic structures. These two sets of Secretary of the Interior's Standards (Secretary Standards) are specifically cited under CEQA Guidelines sections 15064.5(b)(3) and 15126.4(b)(1) as applicable in California for the mitigation of impacts on historical resources.

The Secretary *Preservation* standards and guidelines apply to those buildings that require ongoing maintenance to sustain historic value. *Rehabilitation* standards and guidelines involve the reuse of a historic structure or property while maintaining portions that contribute to historic value. *Restoration* standards and guidelines are applicable to projects that remove portions of a building from another historic period in order to reconstruct missing features from the restoration period. *Reconstruction* standards and guidelines apply to new developments that replicate a historic period or setting. Each set of standards and guidelines provides specific recommendations for proper construction and maintenance.

Of the four "treatments" addressed in the Secretary Standards (preserving, rehabilitating, restoring and reconstructing), rehabilitation is the most widely used "treatment," as it allows for new uses in historical buildings with some alterations to accommodate those uses. It provides the most flexibility of the four treatments. The following ten Secretary Standards are identified to govern implementation of *Rehabilitation* treatments:

1. *A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.*

2. *The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.*
3. *Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.*
4. *Changes to a property that have acquired historic significance in their own right will be retained and preserved.*
5. *Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.*
6. *Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.*
7. *Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.*
8. *Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.*
9. *New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.*
10. *New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.*

(b) National Historic Preservation Act (NHPA). Section 106 of the NHPA requires federal agencies to take into account the effects of their undertakings on historic properties and affords the Advisory Council on Historic Preservation a reasonable opportunity to comment on such undertakings. The Council's implementing regulations, "Protection of Historic Properties," are found in 36 Code of Federal Regulations (CFR) Part 800. The goal of the Section 106 review process is to offer a measure of protection to sites that are determined eligible for listing on the National Register of Historic Places. The criteria for determining National Register eligibility are found in 36 CFR Part 60.

Amendments to the NHPA (1986 and 1992) and subsequent revisions to the implementing regulations have, among other things, strengthened the provisions for Native American consultation and participation in the Section 106 review process.

These federal regulations only come into play in the private sector if a project requires a federal permit or uses federal money. While federal agencies must follow these federal regulations, most projects by private developers and landowners do not require such federal compliance.

8.2.2 State Laws and Regulations

(a) **CEQA.** CEQA applies to all discretionary projects undertaken or subject to approval by the state's public agencies, including cities (CEQA Guidelines section 15002[i]). CEQA (section 21001[b], [c]) states that it is the policy of the State of California to "take all action necessary to provide the people of this state with... historic environmental qualities...and preserve for future generations examples of the major periods of California history." Under the CEQA Guidelines (section 15064.5[b]), "a project with an effect that may cause a substantial adverse change in the significance of a historical resource is a project that may have a significant effect on the environment." CEQA requires that historical resources and unique archaeological resources be taken into consideration during the CEQA planning process (CEQA Guidelines section 15064.5; CEQA section 21083.2).

(1) **CEQA Provisions for Historical Resources.** The CEQA Guidelines (section 15064.5[a]) define a "historical resource" as:

- A resource listed in, or eligible for listing in, the California Register of Historical Resources;
- A resource listed in a local register of historical resources (as defined at Public Resources Code section 5020.1[k]);
- A resource identified as significant in a historical resources survey meeting the requirements of Public Resources Code section 5024.1(g); or
- Any object, building, structure, site, area, place, record, or manuscript that a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California. (Generally, a resource shall be considered by the lead agency to be "historically significant" if the resource meets the criteria for listing in the California Register of Historical Resources. See further discussion of the California Register of Historical Resources below.)

A project that causes a "substantial adverse change" in the significance of a historical resource may have a significant effect on the environment (CEQA Guidelines section 15064.5[b]). The CEQA Guidelines (section 15064.5[b][1]) define "substantial adverse change" as "physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired." Generally, the significance of a historical resource is "materially impaired" when a project demolishes or materially alters in an adverse manner those physical characteristics of a historical resource that convey its historical significance and that justify its inclusion in or eligibility for the California Register of Historical Resources, or its inclusion in a local register of historical resources (CEQA Guidelines section 15064.5[b][2]).

(2) **CEQA Provisions for Archaeological Resources.** If the cultural resource in question is an archaeological site, the CEQA Guidelines (section 15064.5[c][1]) require that the lead agency first determine if the site is a historical resource as defined in section 15064.5(a). If the site qualifies as a historical resource, potential adverse impacts must be considered in the same

manner as a historical resource (CEQA Guidelines section 15064.5[c][2]). If the archaeological site does not qualify as a historical resource but does qualify as a unique archaeological resource, then the archaeological site is treated in accordance with CEQA section 21083.2 (CEQA Guidelines section 15064.5[c][3]). In practice, most archaeological sites that meet the definition of a unique archaeological resource will also meet the definition of a historical resource.

CEQA (section 21083.2[g]) defines a "unique archaeological resource" as an archaeological artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it:

- Contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information;
- Has a special and particular quality such as being the oldest of its type or the best available example of its type; or
- Is directly associated with a scientifically recognized important prehistoric or historic event or person.

According to CEQA section 21083.2(h), resources that do not meet the above criteria are "nonunique archaeological resources" that need not be given further consideration under CEQA.

(3) *CEQA Provisions for Paleontological Resources.* Appendix G of the CEQA Guidelines requires that a determination be made about whether a project would directly or indirectly destroy a unique paleontological resource or site or unique geological feature. If an impact would be significant, CEQA requires that feasible measures be undertaken to minimize the impact.

(b) California Register of Historical Resources. The State Historic Preservation Officer (SHPO) maintains the California Register of Historical Resources (CRHR). Properties that are listed on the NRHP are automatically listed on the CRHR, along with State Landmarks and Points of Interest. The CRHR can also include properties designated under local ordinances or identified through local historical resource surveys.

Criteria for inclusion in the CRHR are as follows (Public Resources Code section 5024.1, CEQA Guidelines section 15064.5[a][3]):

- The resource is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;
- The resource is associated with lives of persons important in our past;
- The resource embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or
- The resource has yielded, or may be likely to yield, information important in prehistory or history.

(c) California Historic Building Code. The 2007 California Building Code (CBC) includes requirements for disabled access to sites and buildings, and extensive energy conservation requirements. Because application of many of these CBC provisions may not be feasible or may be detrimental to projects involving the preservation, refurbishment or adaptive reuse of an historical building or may materially impair the significance of the historical source, the State has also adopted a specific code, the California Historical Building Code (CHBC), for addressing a "qualified historical building or property." The CHBC provides alternative methods for meeting the spirit of the "regular" code (CBC) and provides a level of safety, which protects the occupants of the structure. The CHBC may be used for historic structures when desired by the project sponsor. Because it is listed on the National Register of Historic Places, the on-site Hercules Powder Company Administration Building is eligible to use the CHBC if so granted by the City of Hercules.

(d) Regulations Regarding Human Remains. The disturbance of human remains without authority of law is considered a felony (Health and Safety Code section 7052). If human remains are Native American in origin, they are within the jurisdiction of the Native American Heritage Commission (NAHC) (Health and Safety Code section 7052.5c, Public Resources Code section 5097.98). According to state law (Health and Safety Code section 7050.5, Public Resources Code section 5097.98, CEQA Guidelines section 15064.5[e]), if human remains are discovered or recognized in any location other than a dedicated cemetery, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:

- The county coroner has been informed and has determined that no investigation of the cause of death is required; and
- If the remains are of Native American origin:
 - The descendants of the deceased Native Americans have had 48 hours from time of access to the location of the remains to make a recommendation to the landowner or person responsible for the excavation work for means of treating or disposing of with appropriate dignity the human remains and any associated grave goods, as provided in Public Resources Code section 5097.98; or
 - The NAHC was unable to identify a descendant or the descendant failed to make a recommendation within 48 hours after being granted access to the location of the remains.

The following actions must be taken by the landowner whenever (1) the NAHC is unable to identify a descendant, (2) the descendants identified fail to make a recommendation, or (3) the landowner or authorized representative rejects the descendants' recommendations, and the mediation provided for in Public Resources Code section 5097.94(k), if invoked, fails to provide measures acceptable to the landowner:

- The landowner, or the landowner's authorized representative, shall re-inter the human remains and items associated with Native American human remains with appropriate dignity on the property in a location not subject to further and future subsurface disturbance; and
- The landowner shall provide for the protection of the re-interment site by doing one or more of the following:

- Recording the site with the NAHC or the appropriate information center of the California Historical Resources Information System;
- Utilizing an open-space or conservation zoning designation or easement; or
- Recording a document with the county in which the property is located.

According to the California Health and Safety Code, six or more human burials at one location constitute a cemetery (section 8100), and disturbance of Native American cemeteries is a felony (section 7052).

(e) Senate Bill 18. California State Senate Bill 18 (SB 18) (Tribal Consultation; Government Code section 65352.3) requires local governments to consult with California Native American tribes identified by the NAHC prior to the adoption or amendment of a general plan or specific plan. The purpose of this consultation is to preserve or mitigate impacts on cultural places.

8.2.3 City of Hercules General Plan

Those objectives, policies, and programs from the Hercules General Plan that are pertinent to consideration of the proposed project and its potential cultural and historic resource impacts are listed below. Where any aspect of the proposed project is found in this EIR to be potentially inconsistent with one or more of these City-adopted objectives, policies, or programs, a potentially significant environmental impact and one or more associated mitigations is identified for incorporation into the project to reduce the impact and better implement the General Plan. Otherwise, the proposed project is considered consistent with the objectives, policies, and programs listed below.

The *Land Use Element* of the Hercules General Plan contains the following objectives, policies, and programs relevant to consideration of the cultural and historic resource impacts of the proposed project:

- *Preserve Hercules history while developing its future.* (Objective 8)
- *Preserve and enhance the historic district area.* (Policy 8A)
- *Develop plans to preserve and rehabilitate key historic buildings but not the former plant equipment and manufacturing structures related to former industrial sites.* (Program 8A.1)
- *Designate the Hercules Properties, Inc. parcels as a "special study area" requiring a "planned development" for mixed used use [sic] and residential development. The planned development plan shall address:*
 - *Historic significance of existing historic buildings.*
 - *Opportunities for and location of commuter rail station.*
 - *Drainage and hydrology issues.*
 - *Bay frontage location.*
 - *Diversity of land uses.*
 - *Coordination with adjacent properties needed due to diversity of land uses and complex infrastructure requirements.*

The Hercules Properties, Inc. parcels may be developed differently from the conceptual land uses depicted in the Land Use Diagram. (Program 8A.3)

In addition, the *Open Space/Conservation Element* of the Hercules General Plan contains the following objectives, policies, and programs relevant to consideration of the cultural and historic resource impacts of the proposed project:

- *Protect and preserve important historic and prehistoric resources. (Objective 12)*
- *Prehistoric resources shall be identified and preserved to the extent feasible. If previously unknown subsurface cultural resources are discovered during excavation activities on identified parcels or elsewhere in the study area, excavation would be temporarily halted and an archaeologist consulted as to the importance of the resources. Should the archaeologist determine that the resources are important, the project sponsor would follow the procedures described in Program 12a.2. (Policy 12a)*
- *Prior to development on Parcels [sic] in archaeologically sensitive areas identified within the Land Use Plan EIR, an attempt shall be made through a combination of archival research and in-field testing to identify areas that may have been used by Native American populations. Areas containing prehistoric deposits will be mapped; evaluation of their significance will follow only in those areas where future development might affect the resources. (Program 12a.1)*
- *The City shall enact the following program prior to any development in the vicinity of prehistoric sites CA-CCO-370 and CA-CCO-248 as identified within the Land Use Plan EIR as Parcels 1 and I, respectively. The program will also apply to Parcels A, C, and 1-4, where the potential for Native American remains exists. The program shall be conducted under the guidance of Appendix K of the CEQA Guidelines.*
 - i) *Prior to excavation and construction on the above parcels, the prime construction contractor and any subcontractor(s) will be cautioned on the legal and/or regulatory implications of knowingly destroying cultural resources or removing artifacts, human remains, bottles, and other cultural materials from the project site.*
 - ii) *The project sponsor will identify a qualified archaeologist prior to any demolition, excavation, or construction. The City will approve the project sponsor's selection for a qualified archaeologist. The archaeologist will have the authority to temporarily halt excavation and construction activities in the immediate vicinity (ten-meter radius) of a find if significant or potentially significant cultural resources are exposed and/or adversely affected by construction operations.*
 - iii) *Reasonable time would be allowed for the qualified archaeologist to notify the proper authorities for a more detailed inspection and examination of the exposed cultural resources. During this time, excavation and construction would not be allowed in the immediate vicinity of the find; however, those activities could continue in other areas of the project site.*
 - iv) *If any find were determined to be significant by the qualified archaeologist, representatives of the project sponsor or construction contractor and the City, the*

qualified archaeologist, and a representative of the Native American community (if the discover is an aboriginal burial) would meet to determine the appropriate course of action.

- v) *All cultural materials recovered as part of the monitoring program would be subject to scientific analysis, professional museum curation, and a report prepared according to current professional standards. (Program 12a.2)*

8.2.4 City of Hercules Waterfront District Master Plan (WDMP)

The Waterfront District Master Plan (WDMP) includes the following policies and provisions specifically relevant to cultural and historic resources:

- *To preserve and reuse existing historic structures within the Historic Town Center Sub-District--the Clubhouse and Administration buildings of the old Hercules Powder Company--and to weave these historic buildings into the fabric of an architecturally cohesive and harmonized downtown bayfront area. (Initiative, section 2)*
- *Recognize and preserve the historic character of the existing Hercules Powder Company town site, and allow reuse of existing structures, where appropriate. (WDMP, section 1.2)*
- *Preserve the historic character of the Historic Town Center. (WDMP, section 2.1)*
- *New buildings [shall be] compatible with each other and with the historic factory town character of the site. (WDMP, section 3.1)*

8.2.5 City of Hercules Zoning Ordinance--Historic Overlay District

As described above in section 8.1 (Setting), a portion of the project site is contained within the boundaries of the Hercules Village Historic District, which is zoned H--Historical Overlay District and whose regulations are included in Chapter 20 of the Hercules Zoning Ordinance. The City of Hercules Historical Architectural Review Board (HARB) is the administrative, review, and enforcement authority for Chapter 20. The HARB's purview includes the review and approval/disapproval of "proposed alterations, enlargements, or rebuilding affecting the exterior of buildings in the H District, whether newly erected, existing or relocated, the landscaping associated with such buildings, site plans, and the proposed erection, relocation or demolition of buildings in the H District" (Section 20.200). Therefore, not only does the HARB's oversight include the Administration Building and the Clubhouse, but also proposed new buildings located generally on Blocks A, C1, and C2 of the Hercules Bayfront Project site ("in the H District").

In conjunction with Chapter 20 of the Zoning Ordinance, the Hercules Design Guidelines for Historic Preservation (2004, revised 2008) were prepared to provide applicants and the HARB guidance in the preparation and review of applications for renovations to historic properties in Hercules.

8.3 IMPACTS AND MITIGATION MEASURES

8.3.1 Significance Criteria

Based on the CEQA Guidelines,¹ the proposed project would be considered to have a significant cultural or historic resources impact if it would:

- (a) cause a substantial adverse change in the significance of a historical resource as defined in [CEQA Guidelines] section 15064.5;
- (b) cause a substantial adverse change in the significance of an archaeological resource as defined in [CEQA Guidelines] section 15064.5;
- (c) directly or indirectly destroy a unique paleontological resource or site or unique geologic feature; or
- (d) disturb any human remains, including those interred outside of formal cemeteries.

As described in detail in subsection 8.2.2 above, section 15064.5 of the CEQA Guidelines further defines criteria for determining the significance of impacts on historic and archaeological resources. Section 15064.5 provides that, in general, a resource not listed on state or local registers of historical resources shall be considered by an agency to be historically significant if the resource meets the criteria for listing on the California Register of Historical Resources. Section 15064.5 also provides standards for determining what constitutes a "substantial adverse change" that must be considered a significant impact on an historic resource. Section 15064.5 further states that its provisions apply to those archaeological resources that also qualify as historic resources.

The CEQA Guidelines (section 15064.5[b][4]) specify that, if feasible, adverse effects on the significance of historical resources should be avoided or mitigated. Generally, if a project follows the Secretary of the Interior's standards, its impact on the historical resource is considered mitigated to a less-than-significant level (CEQA Guidelines sections 15064.5[b][3] and 15126.4[b][1]). Generally, documentation of a historical resource by way of narrative, photographs, or architectural drawings does not mitigate the physical impact on the environment caused by demolition or destruction of a historical resource (CEQA Guidelines section 15126.4[b][2]). Preservation in place is the preferred manner of mitigating impacts on archaeological sites (CEQA Guidelines section 15126.4[b][3][A]). When data recovery through excavation is the only feasible mitigation, a data recovery plan must be prepared and adopted before any excavation is undertaken (CEQA Guidelines section 15126.4[b][3][C]). A data recovery plan is not required if the lead agency determines that already completed testing or studies have adequately recovered the scientifically consequential information (CEQA Guidelines section 15126.4[b][3][D]). CEQA section 21083.2 contains additional provisions regarding mitigation of impacts on archaeological resources. CEQA Guidelines section 15064.2(f) specifies that, if historical or unique archaeological resources are accidentally discovered during construction, provisions should include an immediate evaluation of the find by a qualified archaeologist, followed by implementation of appropriate mitigation.

¹CEQA Guidelines, 2010, Appendix G, Items V (a-d).

8.3.2 Impacts and Mitigation Measures

Impact 8-1: Disturbance of Archaeological Resources. Project construction could disturb as yet unidentified and/or unrecorded sensitive prehistoric and/or historic archaeological resources on the project site. This possibility represents a ***potentially significant impact*** (see criteria [b] and [d] in subsection 8.3.1, "Significance Criteria," above).

Project development (e.g., individual site grading, utility trenching) could adversely affect one or more as yet unidentified and/or unrecorded prehistoric archaeological sites. As discussed in subsection 8.1.1(b) above, potential prehistoric archaeological resources have been identified in the project site vicinity, and the Waterfront District in which the site is located also has the potential to contain archaeological resources associated with the Hercules "Powder Works Period" (1879-1977).

Mitigation 8-1. In accordance with policies and programs of the *Open Space/Conservation Element* of the Hercules General Plan (specifically, Policy 12a and Program 12a.2), the project applicant shall retain a qualified archaeologist approved by the City to monitor any demolition, excavation, or construction activities on the project site. The archaeologist shall have the authority to temporarily halt activities in the vicinity of a find if significant or potentially significant cultural resources are exposed and/or may be adversely affected by construction operations. Other procedures identified in Program 12a.2 shall be followed. If a significant cultural resource is identified through these procedures, the City and project applicant shall seek to avoid damaging effects on the resource. Preservation in place to maintain the relationship between the artifact(s) and the archaeological context is the preferred manner of mitigating impacts on an archaeological site. Preservation may be accomplished by:

- planning construction to avoid the archaeological site;
- incorporating the site within a park, green space, or other open space element;
- covering the site with a layer of chemically stable soil; or
- deeding the site into a permanent conservation easement.

When in-place mitigation is determined by the City to be infeasible, a *data recovery plan*, which makes provisions for adequate recovery of culturally or historically consequential information about the site, shall be prepared and adopted prior to any additional excavation being undertaken. Such studies shall be submitted to the California Historical Records Information System (CHRIS). If Native American

(continued)

Mitigation 8-1 (continued):

artifacts are indicated, the studies shall also be submitted to the Native American Heritage Commission. Identified cultural resources shall be recorded on form DPR 422 (archaeological sites). Mitigation measures recommended by these two groups and required by the City shall be undertaken, if necessary, prior to resumption of construction activities.

A *data recovery plan* and data recovery shall not be required if the City determines that testing or studies already completed have adequately recovered the necessary data, provided that the data have already been documented in another EIR or are available for review at the CHRIS (CEQA Guidelines section 15126.4[b]).

If human remains are found, special rules set forth in State Health and Safety Code section 7050.5 and CEQA Guidelines section 15064.5(e) shall apply. All ground-disturbing work shall cease immediately and the County Coroner shall be notified immediately. If the coroner determines the remains to be Native American, the Native American Heritage Commission shall be contacted within 24 hours. The City-approved archaeologist, in consultation with the Native American Heritage Commission, shall recommend subsequent measures for disposition of the remains.

Implementation of these measures would supplement the City's existing General Plan policies and programs and would reduce this impact to a ***less-than-significant level***.

Impact 8-2: Destruction/Degradation of Historic Resources. The project may result in substantial adverse changes in the significance of one or both of the two historic buildings on the project site (the former Administration Building and the former Clubhouse of the Hercules Powder Company). While the project proposes renovation and adaptive reuse of the two buildings, specific designs have not been formulated. Substantial adverse changes that may potentially occur include physical demolition, destruction, relocation, or alteration of one or both of these identified resources, such that the resource is "materially impaired." A historic resource is considered to be "materially impaired" when a project demolishes or materially alters the physical characteristics that justify the determination of its significance (CEQA Guidelines section 15064.5[b]). Such an adverse change to a CEQA-defined historic resource would constitute a ***potentially significant impact*** (see criterion [a] in subsection 8.3.1, "Significance Criteria," above).

As discussed in subsection 8.1.1(c) above, the Hercules General Plan identifies the former Administration Building and the former Clubhouse of the Hercules Powder Company as historic. A portion of the project site, including the Administration Building and the Clubhouse, is located in the Hercules Village Historic District, which is listed on the National Register of Historic Places. The Administration Building is also listed individually on the National Register of Historic Places.

Mitigation 8-2. In accordance with policies and programs of the *Land Use Element* of the Hercules General Plan (specifically, Policy 8A and Programs 8A.1 through 8A.3), the applicant shall develop plans to preserve and rehabilitate the two historic buildings on the project site. Working with a qualified architectural historian approved by the City, meeting the Secretary of the Interior's professional "Historic Architecture" standards published in the Code of Federal Regulations (36 CFR part 61), the applicant shall, to City satisfaction, incorporate measures that would improve the affected resources in accordance with either of the following publications:

- The Secretary of the Interior's *Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings*; or
- The Secretary of the Interior's *Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings*.

Each site shall be formally recorded on State of California primary record forms (form DPR 523) and applicable attachments.

In addition, pursuant to Chapter 20 of the Hercules Zoning Ordinance and the Hercules Design Guidelines for Historic Preservation, the City of Hercules Historical Architectural Review Board (HARB) shall exercise its authority to review and approve/disapprove proposed alterations, enlargements, or rebuilding affecting the exteriors of the Administration and Clubhouse buildings, the landscaping associated with those buildings, and the site plans and proposed new buildings to be located within the Hercules Village Historic District portion of the project site (generally Blocks A, C1, and C2).

Successful incorporation of these measures would supplement the City's existing General Plan policies and programs and would reduce the impact to a ***less-than-significant level*** (CEQA Guidelines section 15126.4[b]). (The Code of Federal

(continued)

Mitigation 8-2 (continued):

Regulations citation 36 CFR Part 61 defines the minimum education and experience required by the National Park Service to perform identification, evaluation, registration, and treatment of facilities consistent with the CEQA-cited Secretary of the Interior's Standards.¹⁾

Impact 8-3: Destruction/Degradation of Paleontological Resources. Grading and excavation activities during project construction could have some potential to disturb or damage as yet unidentified paleontological resources within the project site. This possibility represents a ***potentially significant impact*** (see criterion [c] in subsection 8.3.1, "Significance Criteria," above).

As discussed in subsection 8.1.2 above, while no paleontological or unique geologic features have been recorded on the project site, portions of the site are underlain by the Montezuma Formation, a geologic unit that has been known to contain scientifically significant fossils.

Mitigation 8-3. The City shall require the project applicant to carry out the following measures:

(1) *Education Program.* The applicant shall implement a program that includes the following elements:

- resource identification training procedures for construction personnel;
- spot-checks by a qualified paleontological monitor of all excavations deeper than seven feet below ground surface; and
- procedures for reporting discoveries and their geologic content.

(continued)

¹The minimum professional qualifications cited in 36 CFR Part 61 for historic architecture are a professional degree in architecture or a State license to practice architecture, plus one of the following:

- (a) At least one year of graduate study in architectural preservation, American architectural history, preservation planning, or closely related field; or
- (b) At least one year of full-time professional experience on historic preservation projects.

Such graduate study or experience shall include detailed investigations of historic structures, preparation of historic structures research reports, and preparation of plans and specifications for preservation projects.

Mitigation 8-3 (continued):

(2) *Procedures for Resources Encountered.* If subsurface paleontological resources are encountered, excavation shall halt in the vicinity of the resources, and the project paleontologist shall evaluate the resource and its stratigraphic context. The monitor shall be empowered to temporarily halt or redirect construction activities to ensure avoidance of adverse impacts on paleontological resources. During monitoring, if potentially significant paleontological resources are found, "standard" samples shall be collected and processed by a qualified paleontologist to recover micro-vertebrate fossils. If significant fossils are found and collected, they shall be prepared to a reasonable point of identification. Excess sediment or matrix shall be removed from the specimens to reduce the bulk and cost of storage. Itemized catalogs of material collected and identified shall be provided to a museum repository with the specimens. Significant fossils collected during this work, along with the itemized inventory of these specimens, shall be deposited in a museum repository for permanent curation and storage. A report documenting the results of the monitoring and salvage activities, and the significance of the fossils, if any, shall be prepared. The report and inventory, when submitted to the lead agency, shall signify the completion of the program to mitigate impacts on paleontological resources.

Implementation of this measure would reduce the impact to a ***less-than-significant level***.

Cumulative Cultural and Historic Resources Impacts. The proposed project, in combination with other future development elsewhere in the city, county, and subregion, could contribute to cumulative losses in archaeological, historic, or paleontological resources. Implementation of the measures described in this EIR chapter would ensure that the project's potential contribution to these cumulative impacts would be ***less-than-significant***.

Mitigation. No significant impact has been identified; no mitigation is required.

