

## EMERYVILLE PLANNING COMMISSION

### STAFF REPORT

**Agenda Date:** February 25, 2021

**Report Date:** February 18, 2021

**TO:** Planning Commission

**FROM:** Community Development Department  
Miroo Desai, Senior Planner

**SUBJECT:** **BMR Emeryville Center of Innovation (FDP19-002)**

**PROJECT LOCATION:** 5300 Chiron Way  
(APNs: 49-1041-29-1, -49, 70-2, and 71-2; and 49-1544-1-1, -2, -5, and -6)

**APPLICANT/: OWNER** BRE-BMR 53<sup>rd</sup> LP (Contact: Salil Payapilly)  
17190 Bernardo Center Drive  
San Diego, CA 92128

**PROJECT DESCRIPTION:** Consideration of a Final Development Plan to demolish two existing buildings and surface parking and construct four new multi-tenant research and development buildings and a supporting parking garage as part of implementation of the Emeryville Life Sciences Center Planned Unit Development/Preliminary Development Plan (PUD/PDP), also referred to as the “Chiron PUD/PDP” (PUD 93-2), that was approved by the City Council on August 15, 1995. The project includes utility improvements and circulation improvements including one-way cycle tracks in each direction on Horton Street from 53rd Street to 45th Street; one-way cycle tracks in each direction on 53rd Street from Horton Street to Hollis Street; a diverter at Stanford Avenue and Horton Street; a Pedestrian Hybrid Beacon protected crosswalk at the parking structure on Horton Street; and a traffic signal at the intersection of Horton Street and 53rd Street. The project also includes an application for a Tree Removal Permit for 22 street trees including six European Hornbeams (*Carpinus betulus*) on the north side of 53rd Street between Chiron Way and Horton Street, seven Red Maples (*Acer rubrum*) on the east side of Horton Street north of 53rd Street, and six Brazilian Peppers (*Schinus terebinthifolius*) and three Chinese Pistache (*Pistacia chinensis*) on the west side of Horton Street north of new 46th Street. (“Project”)

**GENERAL PLAN:** Office/Technology and Park/Open Space

**ZONING**                      Planned Unit Development (PUD-3)  
**DISTRICT:**

**ENVIRONMENTAL**

**STATUS:**                      An addendum to the Environmental Impact Report for the Chiron Development Plan that was certified by the City Council on August 8, 1995 (State Clearinghouse #94063005) has been prepared.

**ORGANIZATION OF STAFF REPORT**

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- b. Development Agreement*

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## I. BACKGROUND

### a. *Chiron Planned Unit Development/Preliminary Development Plan (the PUD/PDP)*

The Emeryville Municipal Code (EMC) establishes the planned unit development (PUD) procedures, which allow for the creation of PUD zones to encourage the creative development of large sites so as to permit flexibility in physical design, achieve attractive designs which encourage large-scale site planning, and ensure the applicable provisions on the General Plan are established early in the formation of such development proposals. Under the EMC, a preliminary development plan (PDP) for the PUD is considered by the City Council with a recommendation from the Planning Commission. (EMC Section 9-1.1001) Approval of the PDP constitutes the zoning for the site, and one or more subsequent final development plans (FDP), corresponding to the development phases approved in the PDP, shall be considered by the Planning Commission. (EMC 9-7.1003)

To approve an FDP, the Planning Commission must find that it substantially conforms to the PDP and that changes and conditions of approval specified by the City Council in its approval of the PDP have been met. (EMC 9-7.1004.) The Commission may also deny or conditionally approve the FDP, designating such additional conditions as it deems necessary for the FDP to conform to the PDP and to fulfill the purposes of the Planning Regulations, the General Plan, and any other applicable plans. (EMC 9-7.1011.)

Chiron Corporation, a research and development firm specializing in biopharmaceuticals, vaccines and blood testing, was founded in Emeryville in 1981, and in 1985 they moved into the old Shell Oil research building on Horton Street that had been acquired by Wareham Development and renovated. On August 15, 1995, the City Council passed Ordinance No. 95-006 approving a "Planned Unit Development" (PUD) for Chiron's large life sciences campus, the Emeryville Life Sciences Center Planned Unit Development/Preliminary Development Plan (the "PUD/PDP"), also referred to as the Chiron PUD/PDP (PUD 93-2), subject to conditions of approval. The PUD/PDP encompasses most of the area bounded by Hollis Street, 45th Street, Stanford Avenue, and the railroad (part of the site of an old horse racing track and a planned industrial park that followed it).

This PUD/PDP calls for construction of 14 new buildings, including 7 laboratory buildings, 3 office towers, structured parking, and support facilities, over a 30-year period. Please see Sheet G003 of the attached plans, *PDP Boundary and Illustrative Site Plan*. To date, construction under the PUD/PDP has included one laboratory building ("Building 4") at Hollis and 53rd Street and a central utility plant ("Building 7a") on Chiron Way, both approved via a FDP by the City Council on August 20, 1996 (Resolution No. 96-143); one parking structure ("Building 12a") on Horton Street by a second FDP and amendment to the PUD/PDP approved by the Council on June 5, 2001 (Resolution No. 01- 076); and a park ("Hollis Green") at 53<sup>rd</sup> and Hollis Streets by a FDP approved by the Council on August 2, 2005 (Resolution No. 05-142). A FDP for "Building 3," a research and development building north of Building 4, and for "Building 7b," an expansion of Building 7a, was approved by the City Council on February 19, 2002, but

the buildings were never constructed (Resolution No. 02-27). A number of previously existing buildings on the site, including the old Shell building, and in the surrounding vicinity, continue to be used. Please see Sheet G006 – *Existing Conditions Within PDP Area On BMR Properties*, of the attached plans.

In 2006, Chiron was acquired by the multinational Swiss pharmaceutical firm Novartis. In November 2013, the diagnostics unit of Novartis was sold to Grifols, a multinational pharmaceutical and chemical manufacturer based in Barcelona, Spain. The remaining Novartis portion of the PUD was acquired by Biomed Realty (“BMR”), a developer of life sciences properties that is owned by the Blackstone Group, on March 15, 2019. Today, BMR and Grifols share the Emeryville campus, with each firm owning different buildings and facilities. Sheet G004 – *PDP Boundary And Illustrative Site Plan - Showing BMR Properties*, differentiates between buildings owned by BMR and those controlled by Grifols. Sheet G006 further illustrates existing conditions on BMR owned properties.

***b. Development Agreement***

Chiron and the City entered into a Development Agreement (“DA”) on September 14, 1995, which was approved by Ordinance No. 95-007. A key applicable component of the DA is Chiron’s obligation to timely construct the “Minimum Project,” which includes at least 550,000 gross square feet in at least two buildings along Hollis Street between 53<sup>rd</sup> Street and Stanford Avenue and a parking structure on Horton Street. The existing Building 4 is 290,744 square feet, therefore an additional 259,256 square feet in at least one additional building along Hollis Street must be constructed to meet the Minimum Project requirements. Chiron assigned its rights and obligations under the DA to Novartis. Novartis in turn has assigned its rights and obligations under the DA to BMR.

**II. FINAL DEVELOPMENT PLAN (FDP) PROJECT DESCRIPTION**

***a. Project Site***

The site for the Project comprises approximately 8.5 acres of the 22-acre PUD/PDP site. The Project site includes the areas north of Building 4 between Hollis Street and Chiron Way, the area west of Building 4 between Horton Street and Chiron Way, and the “Rifkin” site west of Horton Street between the south border of the PDP and the existing PDU building. (See Sheet G004 – *PDP Boundary and Site Plan – Showing BMR FDP Boundary*)

The Project consists of four new research and development buildings (B1, B2/3, B8A and B8B) totaling approximately 911,800 square feet fronting Hollis, 53<sup>rd</sup>, and Horton Streets (See Sheet G009 – *Campus Design Site Plan*). The sites of Buildings B1 and B2/3 at the northeast portion of the PUD/PDP site (at the southwest corner of Stanford Avenue and Hollis Street) are currently developed with surface parking that serves existing Building B4. The parking area will be redeveloped with the two new buildings while parking will be provided in the new parking

garage on Horton Street (Building B13/14). This area is surrounded by Building B4 to the south, Grocery Outlet corporate offices and surface parking across Hollis Street to the east, a sports bar and small office building across Stanford Avenue to the north, and existing Building F (owned by Grifols) within the PDP immediately to the west of Chiron Way.

The site of Buildings B8A and B8B face 53rd Street. There are two existing buildings that will be demolished to accommodate these two buildings, and which total approximately 41,500 square feet. They are identified as Buildings G and T on Sheet G006: *Existing Conditions Within PDP Area on BMR Properties*. This area is surrounded by Building B4 to the east, Grifols Buildings N and Q to the south across 53<sup>rd</sup> Street, Grifols Buildings H and 12a and a surface parking lot to the west across Horton Street, and Grifols Buildings CMF and F immediately to the north.

This Project also includes construction of a new 1,991 car parking structure along Horton Street (building B13/14), which will provide parking that supports existing Building 4 (located at the corner of Hollis and 53<sup>rd</sup> Streets) as well as occupants of the proposed new B1, B2/3, B8A and B8B buildings. (See Sheet G009 – *Campus Design Site Plan*). The site of parking structure B13/14, in the southwest portion of the PUD/PDP site (southwest of the intersection of 53rd Street and Horton Street), is currently developed with surface parking and a private basketball court and is leased by the Emeryville Transportation Management Association (ETMA) for the temporary parking of Emery Go-Round buses. This surface parking lot will be removed to accommodate the parking structure. (The ETMA is currently building a permanent parking facility at Mandela Parkway and is anticipated to move by Summer 2021). Northwest of this site is the planned location of Horton Landing Park and the South Bayfront Bicycle and Pedestrian Bridge, currently under construction. To the east across Horton Street are the current buildings N, Q and R, owned by Grifols. To the west and south of the B13/14 site will be the Sherwin-Williams Mixed Use Project, currently under construction.

The Project also would create approximately 131,507 square feet of publicly accessible open space, as discussed below under “Open Space and Landscaping”.

The table below illustrates overall details of each of the five proposed BMR buildings:

Building	Maximum Height	# Occupied Floors	Approximate Maximum Size
B1	178 feet	11	300,000 sq. ft.
B2/3	114 feet	7	261,300 sq. ft.
B8A	135.5 feet	7	221,000 sq. ft.
B8B	103.5 feet	5	129,500 sq. ft.
B13/14 (parking garage)	102.8 feet	11 levels, including grade and roof	1,991 spaces

**Building B1.** This building will consist of an 11-story, approximately 300,000 square foot tower designed to accommodate research and development laboratories and associated office and support space on all levels. The first floor will incorporate the primary building entry, tenant spaces facing the streets, courtyard and plaza, and access for the building loading dock and service areas. Floors 2 through 10 will be designed to accommodate flexible laboratory and associated office and support space on all levels, and the 11th floor will be designed as a “skybox” space that can accommodate either administrative, conference or research space. (See Sheet G013 – *Building Plans – B1*). The potential for a west-facing rooftop terrace space will be incorporated to take advantage of the views from this location. The building roof areas will be utilized for mechanical equipment, including boilers, chillers, air handling units and exhaust fans. Building B1 will incorporate “liner” space at the ground floor level facing Hollis Street and Stanford Avenue. This liner space will generally consist of administrative office areas, conferencing and meeting rooms, training and education facilities, health and exercise rooms, break and refreshment areas, and food service. Retail functions will also be allowed. These functions will be designed to serve employees and will be oriented to activate the garden areas and arcades.

**Building B2/3.** This building will consist of a new 7-story, approximately 261,300 square feet building designed to accommodate research and development laboratories and associated office and support space on all levels. The first floor will incorporate the primary building entry, tenant spaces facing Hollis Street and the courtyard, and access from Chiron Way to the building loading dock and service areas. Floors 2 through 7 will be designed to accommodate flexible laboratory and associated office and support space on all levels. The building roof areas will be utilized for mechanical equipment, including boilers, chillers, air handling units and exhaust fans. Building B2/3 will incorporate “liner” space at the ground floor level facing Hollis Street. (See Sheet G017 – *Building Plans – B2/3*).

**Building B8A.** Building B8A consists of a new 7-story, approximately 221,000 square foot building designed to accommodate research and development laboratories and associated office and support space on all levels. The first-floor level will incorporate the primary building entry, tenant spaces facing 53<sup>rd</sup> Street, Chiron Way and the courtyard, and entries to the building loading dock and service areas. Floors 2 through 7 will be designed to accommodate flexible laboratory and associated office and support space on all levels, with level 6 featuring a roof terrace to take advantage of views to the bay and beyond. The building roof areas will be utilized for mechanical equipment, including boilers, chillers, air handling units and exhaust fans.

**Building B8B** consists of a new 5-story, approximately 129,500 square foot building designed to accommodate research and development laboratories and associated office and support space on all levels. The first-floor level will incorporate the primary building entry, tenant spaces facing 53<sup>rd</sup> Street, Horton Street and the courtyard, and entries to the building loading dock and service areas. Floors 2 through 5 will be designed to accommodate flexible laboratory and associated office and support space on all levels, with level 5 featuring a roof terrace to take advantage of views to the bay and beyond. (See Sheets G021 to G028 for building plans and building images and elevations.)

Building B1, B2/3, B8A and B8B Design and Materials. Building B1, B2/3, B8A, and B8B facades will consist of a combination of materials that are respectful and compatible with the architecture of the existing B4 building, while also updating the appearance of these new buildings to meet new sustainability objectives, indoor environmental standards, energy performance, and marketplace expectations. The project would obtain LEED Silver certification or the equivalent. The lower levels of the proposed B1 and B2/3 buildings will incorporate glass and terracotta or masonry materials that relate strongly to the local Emeryville history, current context and adjacent Building B4 design. The middle levels of the buildings will consist of glass and metal trim that provide excellent light and views to and from the building interior. The Building B8A and B8B facades will consist of a combination of unitized high- performance curtain wall and deep shaded fin walls on the east and west elevations to protect from solar gain and glare. The opaque areas will be addressed with a combination of shadowbox (spandrels) panels and/or metal infill panels, to add interest and variation to the facade. The upper levels and mechanical screens will consist of a combination of opaque glass panels and metal screen materials or terracotta to conceal the rooftop equipment and exhaust risers. (See Sheet G012 – *Project Images – Intersection View at Hollis and Stanford Streets*; Sheet G014 - *Project images - Hollis Street East Elevation B1*; G015 – *Building Images – Elevations B1*; G016 - *Project Images, View at Hollis Street, B2/3*; G019 – *Building images, Hollis Street Elevation -B2/3*; and G020 *Building Images, Elevations B2/3*). The project proposes glass and lighting treatments, architectural features, and landscaping to prevent bird strikes. See Sheet G045 *Bird Safe Design Measures*.

Building B13/14. The building will be a dedicated parking structure with vehicle parking on 11 levels, including the grade and roof levels. Access to the building will be provided from Horton Street. Provisions will be made for electric vehicle charging and the addition of solar panels at the roof level, as appropriate. This building is not anticipated to accommodate any occupied space other than a potential small café and bike repair kiosk on the ground floor as shown on Sheet G033 *Building Plan – B13/14* and G030 *Building Image, Horton Plaza View, B13/14*).

The Building B13/14 façade is designed to be compatible with the architecture of existing Buildings B4 (the main building at the corner of Hollis and 53<sup>rd</sup> Streets) and B12A (existing parking garage off Horton Street) while recognizing the functional requirements. The first-floor building base will generally be more visually open, with mesh screens that allow light, air and views to penetrate the facility while maintaining security. The upper levels will consist of typical parking structure frame and stem walls, with the addition of painted metal vertical screening elements that add interest to the façade and screen the vehicles from view, while meeting the specific criteria for percentage of openness as dictated by the Building Code for a non-mechanically ventilated garage. Stair and elevator components will further break up the building façade with open stairs painted with a gold/bronze color. (See Sheets G029 to G034 for Building Images; Sheet G036 for the Building's relationship to Sherwin Williams; and G029 for a night view of Building B13/14).

PDU Building. As required by PUD/PDP conditions of approval, an Emergency Operation Center (EOC) is proposed in the existing PDU building. (Sheet G033 *Building Plan – B13/14*). Condition of Approval Number VII.A.12 further outlines the obligations for the applicant regarding design and timing of construction.

Commercial Uses: All buildings (except the Parking Garage) will be allowed to have up to 10,000 square feet of ground floor commercial use, provided the cumulative total for the Project does not exceed 40,000 square feet. See Condition of Approval Number I.A.1

*PUD/PDP Buildout and Division of Buildout Between BMR and Grifols:* With approval of this FDP, BMR would have obtained entitlements for all its portion of PDP buildout square footage, while allowing Grifols the ability to entitle its portion of the PDP buildout.

The calculation below shows division of PDP buildout square footages between the two entities, BMR and Grifols.

**Existing BMR:** 357,794 sq. ft.

**Proposed BMR:** 911,800 sq. ft.

**Existing Grifols:** 284,700 sq. ft.

**Total Existing (BMR +Grifols) and Proposed Project:** 1,554,294 sq. ft.

**Total Buildout Permitted by the PUD/PDP:** 2.2 million sq. ft. (excluding parking and open space)

After BMR's entitlement of 911,800 sq. ft., there will be 645,706 sq. ft. left over that the PDP will allow for future development. (2,200,000 – 1,554,294).

Looking at the PUD/PDP buildout and matching with current Grifols and BMR division of the PUD/PDP site, future buildings 6, 7, 9, 10, 11 are shown on Grifols' property and total 710,000 sq. ft. (See Sheets G004: *PDP Boundary and Illustrative Site Plan – Showing BMR Properties* and Sheet G011: *Building Area Summary*). These new buildings totaling 710,000 square feet will replace existing Building H, E, N, Q, and R, which total 157,300 square feet, for a net new square footage of 552,700 square feet (710,000-157,300) which is less than allowed by PDP buildout (645,706 sq. ft.). So, if Grifols (and/or their successors) were to build Buildings 6, 7, 9, 10 and 11, it would not be an issue.

#### **b. Circulation**

The Project opens up Chiron Way to public access, creating vehicular, bicycle and pedestrian access between 53<sup>rd</sup> Street and Stanford Avenue, thereby breaking up a mega block and creating an open accessible campus that integrates with the City's goal of creating a fine-grained street network. It will also allow light, views and circulation around and between buildings.

Vehicle circulation will be limited primarily to the public streets within and around the PUD/PDP area. The goal is for cars to remain on the campus perimeter, with access to the Building B13/14 parking garage off of Horton Street (See Sheet G099 – *BMR FDP – Vehicular Circulation and Service Access*).

The central campus area will be primarily pedestrian circulation, with Chiron Way developed as a pedestrian plaza and pathway that can also accommodate fire trucks and service traffic as well as provide for passenger drop-off and pick-up. Pedestrian pathways will also crisscross the landscaped courtyard area, and the breaks between buildings B4, B2/3 and B1 provide pedestrian access from Hollis Street. (See Sheet G094 – *Pedestrian Circulation*).

Bicycle traffic will also be able to use Chiron Way to cut through the Project site and connect with the city bicycle circulation routes, connecting from the north, through the site, and across the South Bayfront Bicycle and Pedestrian Bridge to access the west side of Emeryville and the Bay. (See Sheets G095 and G096 – *Bicycle Circulation and Bicycle Circulation at B13/14.*)

*Bicycle Infrastructure Improvements:* The Project would implement several roadway improvements with the goal of improving the safety and comfort of bicycle travel within the PDP area. Specifically these measures include: one-way cycle tracks in each direction on Horton Street from 53rd Street to 45th Street (See Sheet G097: *Bicycle Circulation at B13/B14 – Enlarged Plan*); one-way cycle tracks in each direction on 53rd Street from Horton Street to Hollis Street (See Sheet G098: *Bicycle Circulation at 53<sup>rd</sup> Street*); a diverter at Stanford Avenue and Horton Street (See Sheet G099: *Vehicular Circulation and Service Access*); a Pedestrian Hybrid Beacon protected crosswalk at the parking structure on Horton Street (See Sheet G096: *Bicycle Circulation at B13/B14*); and a traffic signal at the intersection of Horton Street and 53rd Street (See Sheet G127).

The above measures will provide the following changes to roadway operations:

- Traffic diverters at the Horton Street/Stanford Avenue intersection that would prohibit vehicular through movements on northbound and southbound Horton Street
- Right-turn prohibition for vehicles exiting the Project parking garage
- One-way cycle tracks on Horton Street between 53rd Street and 45th Street which would be protected, with soft or hardscape buffers, or raised; and
- One-way cycle tracks on 53rd Street between Horton Street and Hollis Street which would be protected, with soft or hardscape buffers, or raised.

The Fehr and Peers memo entitled BioMed Center of Innovation: Bicycle Facility Assessment dated February 15, 2021 provides further analysis of how vehicular and bicycle traffic will operate in the project vicinity. This memo is included in the CEQA addendum prepared for the Project (See Attachment1).

**c.      *Parking***

Building B13/14 will provide parking for the existing Building B4 (290,744 square feet), the existing PDU building (20,700 square feet), and the four proposed new buildings in the Project (911,800 total square feet) for a total of 1,223,244 square feet of research and laboratory type uses served by the garage. (See Sheet G011 – *Building Area Summary*.) Typically research and laboratory businesses need space for laboratory and office on a half and half basis.

Section 2.4.10 of the PDP specifies up to 0.81 spaces per employee as the parking ratio for the PDP campus. The total number of employees estimated to occupy the proposed four research and developments buildings and the existing building B4 is 2,964. So, the maximum number of parking spaces permitted by the PDP based on the parking ratio of 0.81 spaces per employee is 2,401 spaces.

The proposed parking is 1,991, which is equivalent to 0.67 spaces per employee. Therefore, the Project provides 410 fewer parking spaces than the maximum allowed by the PUD/PDP.

**d.      *Open Space and Landscaping***

The PUD/PDP provided for open space of no less than 30 percent of the total site area (including public, semi-public, and open space). Hollis Green Park at 53<sup>rd</sup> and Hollis Streets is the only open space constructed to date. The Project includes 131,507 square feet of publicly accessible open space in plazas throughout the campus and a pedestrian paseo between existing Building B4 and proposed Building B2/3. Sheet G047 *Open Space – Site Plan* outlines open spaces that will be created as part of the proposal. This Sheet shows public open space and areas that are publicly accessible private open space, including Horton Plaza (adjacent to Building B13/14), PCR Plaza (adjacent to Buildings B8A and B8B), Chiron Plaza (between Buildings B1 and B2/3) and Stanford Plaza (between Building B1 and Stanford Avenue).

Sheets G048 to G050 provide images for proposed landscaping and plaza areas around Buildings B1 and B2/3; B8A and B8B; and B13/14. Sheets G051 to G055 provide landscape plans for areas around each building. Sheet G056 *Building Elevations – Living Wall* provides landscaped elevation of the Building B13/14, with Sheets G057 to G059 providing details on the plant palette for the living wall proposed to screen the parking structure. Sheet G062 to G065 provides Materials Plans for proposed buildings while Sheets G066 to G068 provides preliminary Furnishing Plans.

Sheet G069 provides the preliminary plant palette and precedents while Sheets G078 to G081 provide landscape sections.

**e.      *Tree Removal***

The Project includes an application for a Tree Removal Permit for 22 street trees, including six European Hornbeams (*Carpinus betulus*) on the north side of 53rd Street between Chiron Way

and Horton Street, seven Red Maples (*Acer rubrum*) on the east side of Horton Street north of 53<sup>rd</sup> Street, and six Brazilian Peppers (*Schinus terebinthifolius*) and three Chinese Pistache (*Pistacia chinensis*) on the west side of Horton Street north of new 46<sup>th</sup> Street to accommodate construction of the five buildings. See Sheet G070: *Trees Removal and Preservation Plan*. A total of 32 existing street trees will be preserved along 53<sup>rd</sup> Street.

Please note that an additional 122 private trees along Hollis Street and Chiron Way will also be removed. SheetG071 shows that trees along Hollis Street are on private property and are within the footprint of Building B1 and Building B2/3. Removal of private trees does not require a Tree Removal Permit.

Sheet G071: Proposed Street Tree Plan, shows installation of 75 new trees along Stanford Avenue and Horton, Hollis and 53<sup>rd</sup> Streets. In addition, 95 new trees will be planted along Chiron and 53<sup>rd</sup> Street plazas and behind the parking garage structure. Attachment 2 provides an arborist report by the applicant prepared by Ellyn Shea dated January 27, 2021 that provides details on the health of the trees to be removed and their replacement values.

Section 7-10.05(f), “Urban Forestry Ordinance”, of the EMC requires Planning Commission approval for all street tree removal. This Section further states that “the Planning Commission shall require the planting of replacement trees of equal or cumulative diameter to the trees approved for removal and payment of the replacement value fee of the street tree(s) to be removed.” However, Section 7-10.05(f) further states that, for good cause shown, “the Planning Commission may waive the requirement to plant a replacement tree of equal or cumulative value or payment of a replacement value fee.”

Staff recommends that the Planning Commission approve removal of only nine trees, which are located on the west side of Horton Street and just north of the new 46<sup>th</sup> Street. These nine trees include six Brazilian Peppers and three Chinese Pistache. Removal of these nine trees is necessary to accommodate construction of the Parking Garage’s two driveways and bench/plaza feature in the sidewalk area near the center of the building. In addition, construction will include installation of new curb, gutter, cycle track and sidewalk; new landscape strip with irrigation; new streetlighting system and conduit; new electric, water, and telecom utility service; new storm drain and sewer connections, and a new crosswalk with Pedestrian Hybrid Beacon near the center of the building. This new infrastructure will result in complete reconstruction of the sidewalk along the Parking Garage frontage making preservation of these nine trees extremely difficult if not impossible.

In contrast, the six European Hornbeams on the north side of 53<sup>rd</sup> Street and the seven Red Maples on the east side of Horton Street are not located in a position that prevents construction of the proposed Buildings B8A and B8B, as there are no driveways or any other infrastructure improvements associated with these buildings that have been identified at this time. For this reason, staff recommends that the Commission deny the request to remove these eleven trees. If further study of locational characteristics reveals conditions that necessitates removal of these

trees, then the applicant at that time can make an application to the Commission for their removal.

The applicant is proposing to provide 75 new street trees as well as 95 new private trees, including 15 new street trees along Horton Street in front of Building 13/14, where nine street trees are proposed to be removed. Staff is recommending that there is good cause for the Planning Commission to waive the requirement for payment of the replacement value fee of the nine street trees to be removed, which totals \$133,909, because of the net gain in trees that the Project will yield.

### **III. CITY REVIEW OF FINAL DEVELOPMENT PLAN**

BMR initially applied for an FDP to construct two new multi-tenant research and development buildings and a supporting parking garage as part of implementation of the PUD/PDP. The Planning Commission held study sessions on this proposal on December 12, 2019 and April 23, 2020. The applicant then revised the project in response to the feedback it received at those meetings and expanded the scope of the project to add two additional buildings; this revised proposal was reviewed at a third study session on August 27, 2020.

#### ***a. August 27, 2020 Planning Commission Study Session Comments***

The Commission generally was appreciative of the proposal and liked the design of the two new buildings that they had not previously seen. There were suggestions to create an open space for the public on the fifth floor of the garage building and to explore the possibility of roof or upper level public open spaces in the four R&D buildings. The Commission agreed with a staff proposal to extend the green wall on the garage building to wrap around the north wall on the lower level of the garage building. One Commissioner suggested extending the green wall to the upper garage levels on the western side, and another Commissioner encouraged the applicant to consider foci for the different open space/plaza areas. There was a suggestion to incorporate wood at the ground levels of the research and development buildings similar to what is proposed for Building B1. The Commission also expressed appreciation of the applicant's discussion of sustainable elements of the project in their presentation. Exploration of various ways of proposing and using public art for articulation and interest was also suggested.

The Commission, in general, felt that, while progress had been made in the design of the garage building with additional setbacks, it was still a very large building. It was suggested that the applicant explore the possibility of public use of the garage during weekends and off-peak hours and that its design should enable a different use in the future. It was also suggested to vary the thickness and perforation configuration of the panels on the garage to provide additional interest, and to include a rendering that showed the center of the garage structure. It was noted that the shadow study did not include noon time and there was no analysis of what shadows meant for design purposes. It was also commented that it would be useful to see how bicycle and pedestrian conflicts would be minimized and whether a stop sign or signal was appropriate at

53<sup>rd</sup> and Horton Streets. It was noted that a transportation assessment study had been prepared by the applicant, which would be peer-reviewed by Fehr and Peers.

***b. Applicant Response and Changes to the Proposal***

Commission Comment 1: The Commission suggested that there might be an opportunity to create a publicly accessible open space on the fifth floor of the garage building. The Commission also suggested the applicant explore the possibility of roof or upper-level public open spaces in the four R&D buildings.

Applicant Response: The current design responds to the Commission's comments that programmed, usable open space is desired (either in or out of buildings), by proposing updated programming of the Horton Plaza area adjacent to the garage. This updated programming accommodates the uses that the Commissioners indicated in their comments: space is provided for active uses (sports, kid play, dog play) and passive uses (picnicking, seating and furniture for dining). See Sheets G054 *Landscape Illustrative Plan -B13/B14* and G060 *Landscape Precedent Images*.

The applicant reported that it considered the suggestion to locate a portion of these uses in the garage or research and development buildings, but those spaces posed logistical challenges. Additionally, providing these spaces at ground level in areas that are immediately accessible and easily visible to the general public and adjacent to the new pedestrian and bicycle bridge will increase use of these spaces.

Commission Comment 2: The Commission agreed with the staff proposal to extend the green wall on the garage building.

Applicant Response. The current FDP design includes an expanded green wall design. See Sheets G065 *Building Elevations – Living Wall*; G057 *Living Wall -Precedents*; G058 *Living Wall – How It Works*; G059 *Plant Palette – Optimized for Varying Sun Exposure*.

Commission Comment 3: One Commissioner encouraged the applicant to consider different foci for the different open space/plaza areas proposed.

Applicant Response: The open space design addresses this comment by proposing distinct programming at each space. Horton Plaza, because of its size and location, provides open green space for active uses and nature play, as well as seating adjacent to the proposed café space. PCR Plaza provides space for seating adjacent to thoughtful landscaping, and Chiron Plaza, because of its central location, is programmed for gathering, featuring space for tables and seating. See Sheets G048: *Project Image – Chiron Way*; G049: *Project Image: Chiron plaza*; G050 *Project Image – Paseo Looking Toward Chiron Way*.

Commission Comment 4: There was a suggestion to incorporate wood at the ground levels of the R&D buildings similar to what is proposed for Building B1.

Applicant Response: The Building B1 design has been updated to expand the use of material accents.

Commission Comment 5: Exploration of various ways of proposing and using public art for articulation and interest was also suggested.

Applicant Response: The applicant has indicated that appropriate public art around the campus will be explored as the design progresses. The DA allows the applicant to either pay the public art fee as specified in the DA or install art.

Commission Comment 6: It was also suggested to vary the thickness and perforation configuration of the panels on the garage building to provide additional interest.

Applicant Response: The Project incorporates variations in the depth of the architectural panels at the garage, creating visual interest on the facades.

Commission Comment 7: It was noted that the shadow study did not include noon time and there was no analysis of what shadows meant for design purposes; and it was requested to include a rendering that showed the center of the garage structure.

Applicant Response: The current plan set includes these three items. See Sheets G041 to G044.

Commission Comment 8: It was commented that it would be useful to see how bicycle and pedestrian conflicts would be minimized and whether a stop sign or signal was appropriate.

Applicant Response: The bicycle improvement plan now includes one-way cycle tracks in each direction on Horton Street from 53rd Street to 45th Street (See Sheet G096: *Bicycle Circulation at B13/B14 – Enlarged Plan*); one-way cycle tracks in each direction on 53rd Street from Horton Street to Hollis Street (See Sheet G097: *Bicycle Circulation at 53<sup>rd</sup> Street*); a diverter at Stanford Avenue and Horton Street (See Sheet G098: *Vehicular Circulation and Service Access*); a Pedestrian Hybrid Beacon protected crosswalk at the parking structure on Horton Street (See Sheet G095: *Bicycle Circulation at B13/B14*); and a traffic signal at the intersection of Horton Street and 53rd Street.

Fehr and Peer's memo included in the CEQA Addendum has analyzed the plan to ensure that the proposed improvements minimize conflicts between vehicles, bicycles and pedestrians. (See Attachment1).

**c. *Bicycle/Pedestrian Advisory Subcommittee (BPAC Comments)***

The BPAC reviewed the proposal at their August 3, 2020 meeting. Robert Prinz, speaking on behalf of Bike East Bay, stated that he liked the breaking up of a superblock. A resident expressed satisfaction with the existing bicycle infrastructure on Horton Street and felt that the

applicant's proposed change would create confusion. He also noted that, while he liked the changes being proposed to the campus, it would bring more vehicles on the street.

Most Committee members expressed appreciation of the proposal's intention to open up Chiron Way and opening of the campus to the public. Several members expressed concern of having a parking garage on Horton Street and stated a preference for a stop sign on Horton instead of the proposed traffic signal. A preference for having Class IV bike lanes or more separated bike lanes was expressed. One Committee member expressed irony that a parking garage was being proposed (and had been previously approved) on Horton Street and suggested removal of bollards if possible. Another member expressed concern that, often, proposed public-private open spaces tend to get privatized and suggested that a condition be included to preclude any scenario that did that. It was also noted that because the proposed building on Horton Street is a parking garage with no major active uses, it would not cause trucks to drop off deliveries to the building, thereby blocking the bicycle lane. The need for allowing vehicles on Chiron Way was expressed by one member. Another member noted the need to have foolproof bicycle lockers, cargo bicycle parking spaces, and to think about micro-mobility (electric scooters) and the associated issues of wayfinding and appropriate signage. Suggestions for a bike station and provision of free bus passes and other incentives to get employees out of their cars were made.

A concern that retail space may stay vacant was expressed along with the need to make plaza/open space programming for all age groups and not just employees. It was noted that the existing Hollis Green was underutilized. A suggestion of locating the campus security office in the parking garage was suggested as a way of activating the street, especially at night. Finally, one member expressed concern that the project would not be consistent with the changes being considered in the forthcoming update of the Bicycle Pedestrian Plan.

*Staff Comment:* Please note that the applicant has proposed a variety of bicycle infrastructure improvements outlined in the staff report under Project Description which were finalized after the BPAC meeting.

***d. Parks and Recreation Committee Comments***

The proposal was reviewed by the Parks and Recreation Committee at their September 16, 2020 meeting. The Committee generally liked the proposed plazas and access to the Greenway. Suggestions were made to consider using rooftops for open spaces that would be open to the public and to explore opportunities for privately owned public open space (POPOS) in the proposed buildings. The Committee also received clarification that the plaza areas would be open twenty-four hours per day, seven days per week and appropriate lighting will be provided. A concern was expressed regarding solar exposure and wind issues, and that a careful selection of the plant palette was necessary.

Landscaping plans including plant palette have been reviewed by City Arborist Molly Batchelor and her comments have been incorporated in the FDP plans.

#### **IV. CONSISTENCY WITH THE PRELIMINARY DEVELOPMENT PLAN AND CONDITIONS OF APPROVAL**

Section 9-7.1004 of the Planning Regulations states that the Planning Commission must make the following findings in approving an FDP:

- (1) The final development plan substantially conforms to the preliminary development plan; and
- (2) Changes and conditions of approval specified by the City Council in its approval of the preliminary development plan have been met.

The EMC does not provide a formal definition of substantial conformity. The term is commonly understood to require consistency with the essential aspects of the preliminary project and allows for minor modifications. Therefore, staff developed the below criteria and recommends that the Planning Commission could find that the Project substantially conforms to the PDP if:

1. There are no substantial changes in land use from the PDP;
2. The essential aspects of the PDP (discussed further below) are unchanged or enhanced; and
3. There are no substantial increases in the overall density or intensity (although internal transfers are permitted).

In subsection IV.a. below each building's substantial conformity to the PUD/PDP is evaluated using the criteria above and subsection IV.b. outlines the consistency of the FDP with the PUD/PDP Conditions of Approval.

##### ***a. Substantial Conformity Evaluation***

##### **1. Land Use**

The PUD/PDP allows a mix of office, research, and manufacturing uses. The proposed uses in all FDP buildings – research and development laboratories, associated office and support space, ground-floor retail, and parking – are consistent with the land uses shown in the PUD/PDP.

##### **2. Essential Aspects**

When the PUD/PDP was originally approved, the City Council evaluated the proposal's essential aspects, including: A) cohesion across the PUD/PDP and compatibility with the surrounding neighborhood; and B) location and intensity of uses. The conformity of the Project to each essential aspect is discussed below.

##### ***A. Campus Cohesion and Neighborhood Compatibility.***

The Project includes only the BMR-owned properties in the 22-acre PUD/PDP site, but the campus design, building materials and massing, and circulation have been planned to relate to the rest of the campus and be compatible with the surrounding neighborhood.

Building facades consist of a combination of materials that are respectful and compatible with the architecture of existing Building B4.

Building B2/3 is proposed to exceed the height maximum by 24 feet (114 feet instead of 90 feet) set by PUD condition of approval 90. However, the 90-foot height limit for habitable space and other design conditions established in condition of approval 90 were, in part, formulated based on the spatial needs of laboratory functions when the PUD was approved and the desire to create a diverse and vital streetscape environment. The height exceedance is primarily due to the taller ground floor in Building B2/3, which is driven by current marketplace expectations and the desire to activate the street level with dynamic ground-floor uses. Section 2.3 of the PUD/PDP discusses the need for buildings along Hollis Street (such as Building B2/3) to emphasize “a sense of scale, proportion, and functionality.” The 7-story, 114-foot tall Building B2/3 achieves scale and proportion by relating to the adjacent 7-story Building B4 with similar building materials (glass and terracotta or masonry), incorporating a paseo between Buildings B2/3 and B4 to activate and link the buildings, and creating human-scale amenities and an active streetscape at Chiron Plaza. Further, while the proposed height does not perfectly conform to the original height of this particular building, the proposed design is well below the 200-foot limit allowed for other buildings in PUD condition of approval 90.

Furthermore, the lower level of Building B2/3, as well as Building B1, will incorporate glass and terracotta or masonry materials to relate to the adjacent Building B4 design and nod to the local Emeryville history.

Similarly, the Building B13/14 façade is designed for compatibility with existing campus buildings Building B4 and Building B12A. The building base will include mesh screens that allow light, air, and views to penetrate the facility, making the structure more visually open so it can integrate with the campus. Design embellishments such as painted metal screening elements, open staircases painted a golden bronze color, and a decorative metal cable/planter screen system will add visual interest and connect the building to the design palette of the campus.

In addition to integrating with the rest of the campus, Building B13/14 will also need to be compatible with residential development (Sherwin Williams Buildings B2, C, and D) planned to the south and west of the building and Horton Landing Park to the north. The height of Building B13/14 (102 feet) is greater than the 75-foot limit for parking structures west of Horton Street established by condition of approval 90 – Height (D)(1). However, the PUD/PDP does allow building forms up to 200 feet at this site for the South Administrative Complex. Given that building mass and height are perceived the same regardless of the building use, the Planning Commission could find that the maximum height assessed in the PUD/PDP (i.e., 200 feet for Building B14 and 150 feet for Building B13) substantially conforms.

Furthermore, Building B13/14 includes articulation on all four sides to make the structure more compatible with its residential neighbors. A landscaped area ranging in width from

10 to 25 feet is proposed on the western property line to act as a buffer between Building B13/14 and the adjacent 7-story Sherwin Williams Building D. Floors 1 through 5 of the parking structure will be set back 37 feet from the Sherwin Williams building and an additional setback on upper stories (Floors 6 through 11) will provide further relief in massing. These upper stories will be 81 feet from the Sherwin Williams façade. Finally, a green wall is proposed on the western facades between Floors 3 and 5 so that vehicles are screened from view from the adjacent Sherwin Williams residences (see Sheet G036). Building B13/14 will also provide an approximately 50-foot setback on the northern property line to integrate with the Horton Landing Park. The setback allows a 29,264 square foot park (Horton Plaza) to transition into the rest of Horton Landing Park. A bicycle repair shop and small ground-floor café are also proposed at the north end of the parking structure to integrate with and activate the landing of the South Bayfront Pedestrian-Bicycle Bridge. (See Sheets G033 *Building Plan – B13/14* and G030 *Building Image, Horton Plaza View, B13/14*).

Open space and circulation improvements also are key to creating an integrated Project that relates to the surrounding context (see Sheet G047). The Project includes a paseo between the existing Building B4 and proposed Building B2/3 as well as several publicly accessible plazas. These pedestrian paths and open spaces create connectivity across the campus and link the Project to existing and proposed bicycle and pedestrian infrastructure in the surrounding neighborhood. The Project would also open Chiron Way to public access, breaking up a mega-block and creating greater integration with, and access from, the campus surroundings. Allowing vehicles, pedestrians, and bicyclists to circulate and access the campus's amenities will better stitch the campus into the neighborhood compared to the current gated entry (see Sheets G051 to G054). Finally, by focusing on pedestrian and bicycle connectivity in the interior of the campus and making the parking structure (Building B13/14) only accessible off Horton Street, cars will be primarily limited to the campus perimeter. This will help integrate the PUD/PDP as a walkable and vibrant campus.

B. *Location and Intensity of Uses.*

The PUD/PDP provides parameters which regulate development of the PUD/PDP site (e.g., open space requirements, maximum square footage of final buildout) as well as illustrative examples that demonstrate possibilities of how development *could* occur within the parameters. The PUD/PDP does not dictate the precise location, configuration, and square footage of every use. An illustrative site plan is included in the PUD/PDP showing one possible configuration at full buildout. Thus, FDPs associated with the PUD/PDP inherently have a degree of flexibility. While the Project varies from the PUD/PDP with respect to the building configurations and the location of parking, given the PUD/PDP's flexibility and purpose behind these revisions, staff recommends that the Planning Commission find that the Project is in substantial conformance with the PUD/PDP in locating administrative and research and development land uses in Buildings B1, B2/3, B8A, and B8B, and parking in Building B13/14.

The PUD/PDP identifies two separate buildings where the Project proposes one (FDP Building B2/3 compared to Buildings B2 and B3 in the PUD/PDP; FDP Building B13/14 compared to Buildings B13 and B14 in the PUD/PDP) and identifies one building (B8) where the FDP proposes two (Buildings B8A and B8B). These do not necessarily represent changes in land use locations, however, since the proposed building footprints are still within the areas identified for those respective land uses in the PUD/PDP. As noted above, the proposed configuration creates more open space, enhances walkability, enhances vehicular and pedestrian circulation, engages the public and creates a more inviting campus. Moreover, in this context, floor area is more indicative of development intensity compared to the number of buildings. This focus on building intensity over building layout is consistent with City Council Resolution No. 02-27, approving a Final Development Plan for Building B3, which found that the proposed design for Building B3 (which was approved but never built) was in substantial conformance with the PUD/PDP even though the building did not exactly match the configuration shown in the illustrative PUD/PDP. Perfect conformity is not required for a finding of substantial conformity to be made. The floor area proposed by the Project is within the bounds set by the PUD/PDP. The total square footage allocated to the uses is also well within the maximum permitted by the PDP.

The PUD/PDP includes parking at Building B1, but the Project does not. The Project does propose parking, but only in Building B13/14. The PUD/PDP envisioned Building B14 to include parking and office uses, whereas the Project proposes Building B13/14 as a standalone parking structure. The proposed configuration of parking in Building B13/14 and not in Building B1 is an internal transfer within the development that represents a design refinement, not a material change. The primary use of Building B1 is still research and development/office and the primary use of Building B13/14 is still parking, which is consistent with the illustrative space utilizations envisioned in the PUD/PDP. The proposed location of parking does not preclude the development intensity allowed under the PUD/PDP and represents a design refinement that enhances the Project.

Additionally, the proposed building reconfigurations and parking location further the objectives of the PUD/PDP, including:

- Secure long-term entitlements that provide sufficient flexibility to accommodate the long-term evolving needs of a biotech company while providing a sufficient amount of certainty in the land use process to justify the investment in new facilities.
- Provide the necessary physical resources to support scientific research and development requirements in a center that features highly distinctive architecture
- Enhance the pedestrian environment by minimizing the movement of motor vehicles through and within the site.

Therefore, the Planning Commission could find that the proposed location of the buildings and parking are in substantial conformance with the PUD/PDP.

### **3. Density/Intensity**

The PUD/PDP regulates the intensity of development on the site by establishing a maximum FAR of 2.33. The existing FAR of the 22-acre PUD/PDP site is 0.67 and, with the Project, the FAR of the PUD/PDP site would be 1.62. Therefore, buildout of the Project would be within the development intensity allowed by the PUD/PDP.

### **Conclusion of Substantial Conformity Evaluation**

Based on the above recommended factors to evaluate substantial conformity, the Planning Commission may find that the Project is in substantial conformity with the PUD/PDP. The Project substantially conforms to the land uses, essential aspects, and the density/intensity of the PUD/PDP. Where it does deviate from the PUD/PDP, its deviations maintain or enhance neighborhood compatibility and campus cohesion. Therefore, staff recommends that the Planning Commission find that the Project is in substantial conformance with the PUD/PDP.

#### ***b. Consistency with PDP Conditions of Approval***

Staff has evaluated the Project in light of the PUD/PDP conditions of approval. With respect to PUD/PDP condition of approval 90, which relates to the design of the Project, as discussed above, the Planning Commission could find that the Project substantially conforms to the PDP and the PUD/PDP conditions of approval related to design. Similarly, the Project's consistency with PUD/PDP conditions of approval 2 (Compliance with Approved Plans), 9 (Land Use), and 16 and 19 (Open space/Landscaping Pedestrian Circulation) is demonstrated through the Project's plans. (See Sheets G009 to G083.)

There are some PUD/PDP conditions of approval that call for compliance specifically at FDP approval. The PUD/PDP conditions of approval for utility construction of the storm drain (no. 58) and review by the Fire Department (nos. 72-84, 86) require review at several stages of Project implementation, including FDP approval. As it relates to utility construction of the storm drain, Sheet G110 outlines the storm drain utility plan for the Project. For review of utility construction by the Fire Department, Alameda County Fire Department has reviewed the plans and proposed Condition of Approval V.A.1. to ensure that the Project is constructed with current fire code. Similarly, the Project's plans (Sheets G085-G092) demonstrate consistency with PUD/PDP conditions of approval related to street lighting (nos. 46-47).

PUD/PDP condition of approval no. 45 requires the applicant to consider certain traffic demand management (TDM) measures that would encourage the use of either bicycles or public transit. Proposed Condition of Approval VI.B.3 requires the Applicant to submit a baseline report for the TDM plan prior to the first temporary certificate of occupancy for a Research and Development Building. Deferral of compliance with this PUD/PDP condition of approval until

certificate of occupancy would be appropriate so that the applicant can consider PUD/PDP condition of approval 45 with the inclusion of the TDM baseline report.

The remainder of the PUD/PDP conditions of approval are either on-going or not applicable. For on-going conditions of approval, the applicant is required to comply with those conditions of approval and building permit plans and public improvement plans continue to be evaluated against the ongoing conditions of approval to ensure compliance.

## **ENVIRONMENTAL REVIEW**

On August 8, 1995, the City Council certified, via Resolution No. 95-140, the Environmental Impact Report for the Chiron Development Plan (State Clearinghouse #94063005). The Council also adopted Resolution No. 94-141, which made findings concerning mitigation measures, adopted a Mitigation Monitoring and Reporting Program (MMRP), made findings of fact regarding alternatives, and adopted a Statement of Overriding Considerations. The impacts that could not be mitigated to a less than significant level related to traffic, transportation, circulation and parking, chemical and physical health and safety, air quality, noise, hydrology and water quality, and archaeological and historical resources. These impacts were deemed acceptable because the PUD/PDP would advance local plans for the City, create jobs and business activity in the biotechnology industry, and generate revenue. The current Project proposes a FDP for a site within the PUD/PDP.

CEQA Section 21166 and its corresponding CEQA Guidelines Section 15162 provide that once an EIR has been prepared, no subsequent or supplemental EIR shall be required by the lead agency unless: (1) substantial changes are proposed in the project which will require major revisions to the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; (2) substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or (3) new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete, shows any of the following:

- (A) The project will have one or more significant effects not discussed in the previous EIR;
- (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
- (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

- (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

CEQA Guideline Section 15164(e) provides that a brief explanation of the decision not to prepare a subsequent EIR pursuant to Section 15162 should be included in an addendum to an EIR, the lead agency's findings on the project, or elsewhere in the record. Again, this Project is within the scope of development evaluated by the previously certified EIR for the Chiron Development Plan.

An Addendum memo for this Project ("CEQA Compliance for Proposed Biomed Final Development Plan (Addendum to the Certified Chiron EIR)" dated February 17, 2021) was prepared by Urban Planning Partners (UPP) in order to analyze whether any of the conditions specified under CEQA Guidelines Section 15162 would require a supplemental or subsequent EIR. As detailed in the Addendum memo, there are no substantial changes in the proposed Project, nor changes to the circumstances under which the Project will be undertaken, nor new information of substantial importance that would require preparation of a supplemental or subsequent EIR.

The Addendum memo focused the analysis on those aspects of the Project that differ from the PUD/PDP - including the building configurations and design, transportation and circulation changes, and parking - to determine if they had new significant environmental effects or a substantial increase in the severity of previously identified significant effects. UPP found that the additional detail provided in the FDP results in less development square footage and parking spaces than what is included in the PUD/PDP, thus incrementally reducing impacts identified for the PUD/PDP. Although changes under which the Project would be undertaken have occurred (e.g., street alignment, surrounding development) and some new information has become available (e.g., greenhouse gas emission CEQA thresholds) such changes and information would not result in new significant effects or more severe effects than those identified in the Chiron EIR.

Because the EIR used a level of service (LOS) metric to evaluate transportation impacts, which is no longer considered an environmental impact according to the California legislature, the analysis was redone using the accepted vehicles miles traveled (VMT) threshold. The Project is entitled to a less than significant impact presumption under the Office and Planning and Research Guidelines given its proximity to transit. Fehr & Peers nevertheless analyzed the Project's VMT (*BioMed Center for Innovation – Vehicle Miles Travelled Assessment*, February 2, 2021) and confirmed that, with the required Transportation Demand Management plan, the Project would not exceed regional VMT per employee. For these reasons, UPP was able to find the traffic impacts were no longer significant and unavoidable (LOS), but would be less than significant (VMT).

Fehr & Peers also analyzed the Project's bicycle and pedestrian enhancements for potential conflicts with vehicles and consistency with City policies (*BioMed Center for Innovation – General Plan Consistency Assessment*, February 2, 2021). Based on this, UPP concluded the Project would not result in any new significant impacts or substantially more severe impacts related to transportation hazards.

All other impact areas are evaluated in the Addendum memo and, as noted, there have been no substantial changes in the proposed Project, or to the circumstances under which the Project will be undertaken, and no new information of substantial importance exists which would require preparation of a subsequent or supplemental EIR. The Project complies with the relevant EIR mitigation measures. Therefore, under CEQA Section 21166 and CEQA Guidelines Sections 15162 and 15163, no further environmental review is required.

### **RECOMMENDATION:**

After hearing a presentation from the applicant and receiving public testimony, staff recommends the following actions by the Planning Commission:

- (1) Approve Resolution No. FDP19-002 and conditions of approval that allows demolition of two existing buildings and surface parking and construction of four new multi-tenant research and development buildings and a supporting parking garage; and
- (2) Approve Resolution No. TREE21-001 approving removal of nine street trees (six Brazilian Pepper trees and three Chinese Pistache trees) located on the west side of Horton Street.

### **Attachments:**

- (1) CEQA Compliance for Proposed Biomed Final Development Plan (Addendum No. 2 to the Certified Chiron EIR prepared by Urban Planning Partners, dated February 17, 2021)
- (2) Arborist Report prepared by Ellyn Shea dated February 9, 2021.
- (3) Draft Resolution No. FDP19-001 and Conditions of Approval
- (4) Draft Resolution No. TREE21-001
- (5) Project Plans