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March 22, 2016

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**SUBJECT: Appeal of Vallejo Architectural Heritage & Landmarks Commission  
Decision on 3/17/16 Designating Structures on Vallejo Marine Terminal  
Property as City Landmarks (AHLC File #15-0027)**

Dear Ms. Abrahamson,

This letter serves to appeal the decision made by the City of Vallejo Architectural Heritage & Landmarks Commission (AHLC) on 3/17/16 adopting Resolution No. AHLC 16-01 to designate as “City Landmarks” six of the existing structures owned by Vallejo Marine Terminal, LLC located at 790-800 Derr Avenue in Vallejo. This appeal is filed pursuant to Chapters 16.38 and 16.102 of the Vallejo Municipal Code.

**A. Reasons for Appeal:** There are several reasons for the appeal as set out below:

1. **Failure to Comply With V.M.C. Section 16.38.180.** The approval of Resolution No. AHLC 16-01 (the “Resolution”) is in violation of Vallejo Municipal Code Section 16.38.180 which provides that the Commission must schedule a public hearing on a request for designation of structures as City Landmarks. After conducting the public hearing, the Commission “*shall determine whether to designate the structures as a city landmark, provided that no such designation shall be final **prior to ratification at a subsequent meeting of the Commission***” (emphasis added).

The Resolution, adopted at the same meeting at which the public hearing was held, erroneously took final action to designate the six structures as individual City Landmarks based on findings contained therein.

2. **Failure to Satisfy the Requirements for Designation of Chapter 16.38.** V.M.C. Section 16.38.160 sets forth certain requirements for designation of a site or structure as a City Landmark. Subsection A provides that “*City Landmarks shall include those structures found to have unique historical, architectural or aesthetic interest or value and which are eligible for or listed on the National Register of Historic Places*” (emphasis added). Appellant has spent hundreds of thousands of dollars in having an Environmental Impact Report prepared analyzing all of the impacts of its development project including a full and complete analysis of the development upon historic resources. We enclose with this letter a copy of Section 3.4 of the Draft EIR. Section 3.4.2 of the cultural analysis examines existing conditions and on page 3.4-8 under the discussion of “Existing Structures” explains that Carey and Company, a historic consultant, prepared an initial analysis of the site and structures in 2008 in connection with another proposed project and stated that six of the structures appeared eligible for National or California Register

inclusion. In 2014 for our project EIR, Carey and Company performed a reevaluation of the historical status of these structures and determined as follows:

*“The reevaluation resulted in a modification to the status of the historic resources, and changes the historical status of the structures from structures individually eligible for listing in NRHP to contributing resources to a potential Sperry Flour Mill Historic District.”*

Thus, the 2014 Carey and Company Report modifies and supersedes the 2008 report which the Commission’s Staff Report relied upon to provide substantial evidence that these structures were eligible for inclusion in the National Register and, thus, appropriate for designation as “City Landmarks”. This blunder on the part of Commission staff is illustrative of the damage done in ignoring the far reaching and very complete analysis of the impacts on historic resources that is contained in the Draft EIR prepared for and essential for the consideration of our development project. Carey and Company has concluded that these structures are not eligible for inclusion in the National Register individually and thus are also not eligible for designation as City Landmarks.

3. **The AHLC Action is Premature, Contrary to Agreement with the City of Vallejo, and Uninformed.** Vallejo Marine Terminal, LLC (VMT) and its principal tenant, Orcem California (Orcem), filed applications over two years ago for approval of Major Use Permits on the subject property located at 790 and 800 Derr Avenue. The VMT and Orcem applications focus on reuse of this water-related industrial site for improvement of a modern deep-water marine terminal and mill for production of ground granular blast furnace slag (the “Terminal and Mill Project”). VMT and Orcem subsequently entered into an agreement with the City of Vallejo providing that an environmental impact report (EIR) be prepared and certified prior to the City making any decision pertaining to use and/or improvements on the entire site, including the six structures addressed by the AHLC action. The Draft EIR was released on September 3, 2015 for public review, and among other things, analyzes the environmental impacts of the Terminal and Mill Project on the entire site, and all of the existing structures. Most importantly, the Chapters 3.3 (Biological Resources), 3.7 (Hazards), 3.8 (Water Quality) and 6.4 (No Project Alternative) of the Draft EIR analyze the potential environmental impacts of leaving the decaying creosote soaked pilings and wharf remnants in place to continue their ongoing negative impacts upon the Mare Island Strait and San Francisco Bay.

Based on the foregoing facts, the action of the AHLC is both premature and inappropriate because: (a) It is contrary to the agreement entered into with the City of Vallejo to ensure that all decisions made with respect to the VMT Property, including all existing structures, be withheld until the EIR is certified as complete; and (b) It fails to consider the pertinent scientific information pertaining to the environmental damage currently being exacted by the decaying creosote soaked pilings and wharf remnants, which would be exacerbated by the AHLC action.

4. **Designation of These Structures is Not Exempt from CEQA and Requires Full and Complete Analysis under the EIR which is Currently Being Finalized.** CEQA Guidelines §15003(h) requires that: "*The lead agency must consider the whole of an action, not simply its constituent parts, when determining whether it will have a significant environmental effect.*" Further, CEQA Guidelines §15378(a) makes it clear that a "**project**" consists of the whole of an action that may result in a direct or reasonably foreseeable indirect impact upon the environment. Thus, when examining an activity to determine whether it could affect the physical environment, the agency must consider the entire activity that is subject to its approval (Bozung v. LAFCO (1975) 13 Cal.3d 263). As analyzed in the City's Draft EIR, the Terminal and Mill Project clearly includes the evaluation of existing structures on site. The AHLC erred in determining that the act of designating six of these structures as city landmarks would be exempt from CEQA. This is incorrect and constitutes an impermissible "piecemealing" of the examination and analysis of the impacts of the Terminal and Mill Project. A public agency may not divide a single project into smaller individual subprojects to avoid responsibility for considering the environmental impact of the project as a whole (Orinda Assn. v. Board of Supervisors (1986) 182 Cal.App.3d 1145).

To take such a piecemeal action on six of the structures, separate from the Terminal and Mill Project, is to segment the designation of these buildings as a separate part of the project and exempt that from environmental review contrary to the conditions which must be satisfied for application of an exemption under Guidelines §15061(b)(3). This is inappropriate and illegal. A Draft EIR has been prepared for the Terminal and Mill Project, and is being considered by the City Planning Commission. That EIR contains an extensive analysis of the impact of the project upon the structures located upon the site and also investigates the impacts of those structures' continued existence upon the environment.

Based on the foregoing facts, the action of the AHLC to determine the historic value and appropriate level of protection of six of the existing structures without considering the entire EIR is in violation of CEQA and must be reversed. As a part of the approval process for the Terminal and Mill Project, the City must carefully review the historic value of these structures based on the certified EIR.

5. **The AHLC Action would Have Significant Environmental Effects on the Aquatic Environment which were Not Considered.** In making their decision, the AHLC failed to consider the EIR for the Terminal and Mill Project, including the detailed analysis of biological resources, toxic materials, and hydrology and water quality. This AHLC decision also failed to consider the significant potential environmental consequences of imposing new regulatory controls intended to prevent removal of six of the existing structures on this property. As documented in the Draft EIR, the resulting retention of the decaying wharf remnants will result in continued emission of creosote and small decaying toxic fragments into the waters of the Napa River, thereby causing significant harm to nearby aquatic habitats.

Chapter 6.4 of the City's Draft EIR, summarizes the "No Project" Alternative, under which the six structures in question would be retained. Chapter 3.3 (Biological Resources) of the Draft EIR states that retention of the existing wharf structure and its creosote pilings would result in the following potentially significant environmental impacts:

*"...potential toxicity issues to marine invertebrates and fish, especially Pacific herring, a species of special concern, as well as to the survivability of their eggs (Vines et al. 2009). The potential impact to the marine benthic community inhabiting the sediments in close proximity to these creosote pilings from polyaromatic compounds poses potentially greater risk to the quality of the fish foraging habitat for protected and MSA-listed fish (Stratus Consulting 2006; EPA 2008). The potential impact to subtidal habitats and special-status taxa from their presence is reduced with the removal of these structures."*

Chapter 3.3 goes on to discuss the environmental benefits of carefully removing the "toxic creosote pilings", including the provision of enhanced fish foraging habitat for protected and special-status fish species. Chapter 3.3 explains that replacement of the decaying wharf with a modern concrete terminal structure would have the following substantial environmental benefits:

- *Reduced substrate for introduced species*
- *Reduced shading of the bottom and water column*
- *Reduced toxic effects of creosote and other contaminants*
- *Reduced restrictions to flow and sediment movement*
- *Restoration, re-creation, or realignment of intertidal mudflats, sand flats, rock, and shellfish, eelgrass, and SAV beds*

Based on the foregoing facts, the AHLC decision to ignore the scientific information contained in the City's EIR is in violation of CEQA, and would lead to unintended significant harm to both species and habitat. The decision should be overturned and any determination on historic designation should only take place following certification and review of the complete Final EIR.

6. **Action by AHLC would result in Significant Blight on the Physical Environment which was Not Considered.** The AHLC decision did not consider the effects of long-term forced retention of the deteriorating and functionally obsolete wharf, mill and silo structures which are unsuitable for industrial reuse, and the resulting potential for further decay and onset of substantial physical blight. As analyzed in Chapter 6 of the Draft EIR, these structures cannot be converted or adapted for reuse to serve a modern water-related industrial use, as called for

under the Terminal and Mill Project applications, and as authorized under the Vallejo General Plan and Zoning Ordinance, and the San Francisco Bay Plan. The AHLC action would impose an extremely strict set of procedures, managed directly by the AHLC itself, which prohibit any alteration of structures designated as city landmarks. These procedures and the findings required for demolition of the designated structures would effectively preclude establishment of a modern water-related industrial use on the VMT Property. As the six existing designated structures continue to remain unoccupied and further decay, their physical appearance, the associated emission of toxic materials, and the inevitable vandalism facilitated by long-term vacancy and neglect, will all contribute to physical blight. These effects may extend beyond the boundaries of the VMT Property, leading to reduced property values, deferred maintenance, increased vacancies, and greater exposure to vandalism on adjoining residential properties and other nearby industrial properties.

Based on the foregoing facts, the AHLC erred in failing to conduct any environmental review whatsoever, and in particular, in failing to consider the information contained in the EIR for the Terminal and Mill, Project.

7. **Action by AHLC would result in a Significant Conflict with the Vallejo General Plan and Zoning Ordinance, and the San Francisco Bay Plan which were Not Considered.** The AHLC action results in a significant environmental effect by blocking implementation of policies in both the Vallejo General Plan and the San Francisco Bay Plan. The Staff Report did not disclose, nor did the Commission consider the fact that the VMT Property is designated on the Vallejo General Plan for "Employment" uses, and is located in the "Intensive Use Zoning District". The AHLC also did not consider the fact that this property is specifically designated on the San Francisco Bay Plan as "Water-Related Industry". These are serious omissions in the AHLC's deliberations which were deliberately avoided by refusal to consider the EIR prepared for the Terminal and Mill Project.

The Vallejo General Plan strongly encourages establishment of a use on this property which would "**attract new businesses offering high wage jobs**" and uses which would facilitate "**a higher percentage of residents working in the Vallejo area**". The San Francisco Bay Plan states that "**the navigable, deep water sites around the Bay are a unique and limited resource and should be protected for uses requiring deep draft ship terminals, such as water-related industries and ports**". As explained under #4 above, the AHLC decision to apply city landmark designations to the wharf, the mill and the silos would effectively preclude improvements needed to establish feasible new water-related employment generating industrial uses on the subject property. CEQA specifically prohibits the kind of piecemeal actions as exhibited in this decision by the AHLC in order to avoid uninformed decision making with potentially significant and far-reaching direct and indirect environmental consequences.



Based on the foregoing facts, the AHLC erred in failing to consider any of the policies contained in the Vallejo General Plan and the San Francisco Bay Plan, and any of the standards and uses allowed under the Vallejo Zoning Ordinance. The AHLC also erred in failing to consider the information contained in the EIR for the Terminal and Mill Project, which addresses consistency with the Vallejo General Plan and Zoning Ordinance, as well as the San Francisco Bay Plan.

8. **The AHLC's Action would impede the Decision Making Process with respect to the Larger Project.** As noted under #4 above, the AHLC's premature and uninformed imposition of city landmark status for six of the existing structures on the VMT Property would trigger a "Certificate of Appropriateness" process and findings requirement for implementation of the larger Terminal and Mill Project, thereby interfering with the Planning Commission's deliberation process. In considering the Major Use Permit applications for the Project, the Planning Commission must consider consistency with the Vallejo General Plan and Zoning Ordinance, as well as the San Francisco Bay Plan (see item #5 above). Prior to making any decisions, the Planning Commission (like the AHLC) is legally obligated under CEQA to consider all of the information contained in the certified Final EIR, including the Chapter 3.4 (Cultural Resources) and the supporting technical appendices. Ultimately, the decision-making process requires weighing the environmental, social and economic benefits of any project which also poses unavoidable significant effects, such as the loss of culturally significant resources. However, because the AHLC has taken a piecemeal action, uninformed by the information contained in the City's EIR, it has precluded consideration of many important factors which bear on the appropriateness of designation for these six structures, and has inappropriately interfered with the decision-making process pending before the Planning Commission.

Based on the foregoing facts, the AHLC erred in taking action prematurely and without consideration of the critical information contained in the certified EIR for the Project.

9. **The AHLC Resolution Incorrectly Fails to Consider the Substantially Altered Condition and Cultural Resource Status of the Wharf, Mill and Silos.** In relying exclusively on the 2008 Carey Report, the AHLC failed to consider material facts disclosed in the Draft EIR, and in comments submitted on the Draft EIR, concerning the physical conditions present as of the time that the NOI was issued for preparation of the Draft EIR (the CEQA "Baseline"). Chapter 3.4 of the Draft EIR discloses that the 2008 Carey Report was superseded by the 2014 Report based on reevaluation of the historical status of these same structures", and that the cultural resource status of these structures was specifically modified so as to no longer consider them eligible for individual listing. As is disclosed in the 2014 Carey Report (Appendix F of the Draft EIR), and Chapter 3.4 of the Draft EIR (attached), the "integrity of design, materials, workmanship and feeling" of the wharf have been extensively compromised over the past decade, as tidal action, vandalism and physical decay have extensively deteriorated what remains of this structure.

As noted in the 2014 Carey Report, the flour mill has undergone extensive alteration, including the following: *“Almost all of the windows are non-original, as are the metal awnings, rooftop mechanical units, a conveyor shed from the mill to the bakery warehouse, and a partially enclosed passageway supported by metal posts and clad with corrugated fiberglass sheets that is located at the northwest end of the building. The conveyor shed at the northwest end of the building dates to the construction of the mill, but does not retain a high level of integrity; it has been truncated and reclad.”*

As has been submitted into evidence during the Draft EIR review period, the flour mill and silo structures have both suffered extensive damage during the Napa Valley Earthquake in 2016. These structures have been designated as uninhabitable because of cracking and potential collapse.

Based on the foregoing facts, the AHLC erred in failing to consider material facts which are part of the environmental record, showing that all six of the designated structures are no longer eligible for consideration as individual landmarks, and that the wharf, mill and silos have undergone substantial degradation of integrity over the past decade.

**10. The Action of the AHLC was Intended to Impede Approval of the VMT and Orcem Use Permit Applications and is Otherwise without Merit.** It is clear from the arguments presented in the application submitted by the Vallejo Architectural Heritage Foundation (VAHF), as well as from the action taken by the AHLC, that the intent of both parties was to interfere with approval of the Major Use Permit Applications filed by VMT and Orcem to improve the subject property for establishment of a new marine terminal and modern plant for the production of GGBFS. Since neither the VAHF nor the VHRC has authority over reuse of the property pursuant to the City’s adopted General Plan Policies and Zoning Ordinance Standards, the real purpose of the application filed and action taken was clearly to attempt to establish a roadblock to approval and implementation of the Use Permit Applications. The VAHF’s representatives have repeatedly appeared at hearings on the Draft EIR held by the City of Vallejo to voice their objections to the VMT Terminal and Orcem Plant Project itself.

- In a formal Draft EIR written comment dated 11/01/15, AHLC vice chair Bowman made inquiries about “what Asian countries will the imported slag be shipped from?”, “how will their contents be examined for legal, intended import?”, and “will there be garbage coming from the Port of San Francisco as some have claimed?” Vice chair Bowman also expressed concerns over alleged cancer risks associated with operation of the Terminal and Mill Project.
- In a formal Draft EIR written comment dated 10/08/15, Commissioner Genn argued that the Terminal and Mill Project “will effect the land use of all south Vallejo, just as we are trying to help it to its highest use.”

- In a lengthy formal Draft EIR written comment dated 11/02/15, Commissioner Villenas argued with respect to the Terminal and Mill Project that “These projects will deteriorate further the already impoverished community of South Vallejo, and therefore should be rejected by the city”, and that the City should “shelve these projects until a general plan is approved” (referring to the update to the current Vallejo General Plan which is now underway). The communication also asserts a number of specific arguments regarding the adequacy of the analysis in the Draft EIR.
- Peter Brooks, the principal spokesperson for the VAHF and author of the 10/07/15 application submitted to the AHLC on behalf of the VAHF, appeared in person at hearings and submitted at least four separate written comments pertaining to the Draft EIR for the Terminal and Mill Project. Mr. Brooks’ argued for denial of the Project on the basis of concerns over truck traffic utilizing Lemon Street, hours of operation of the uses, concern over importation of garbage from San Francisco, concerns over traffic impacts, and concerns over the source of the slag to be used in Orcem’s milling operations.

Based on the foregoing facts, the AHLC erred in taking action for the purpose of impeding the Major Use Permit Applications.

11. **Other Reasons.** The action of the Commission is inappropriate for such other reasons and grounds as we may present to the City Council at the appeal hearing.

B. **Why Appellant Is Adversely Affected.** The Appellant will be adversely affected by the Commission’s decision designating these structures as City Landmarks because Appellant, over two years ago, filed applications for approvals for development of a marine terminal and an environmentally-friendly cement company and has spent hundreds of thousands of dollars in processing those applications, including the preparation of a Draft EIR which looks at all of the impacts of the project, including the impacts upon historic resources. To designate these structures as City Landmarks is premature, in violation of CEQA and makes it much more difficult for Appellant’s project to be judged fairly as it moves forward. In order to modify or demolish these structures once designated, it would be necessary for the Appellant to apply for a Certificate of Appropriateness according to V.M.C. Chapter 16.38 and the result will be an entirely different level of scrutiny and review imposed upon these structures without the benefit of the Commission and the City Council considering the Draft EIR that has already been prepared for the project, for which the Appellant has spent hundreds of thousands of dollars.

C. **Appeal Hearing.** The Appellant will present all of the materials contained in this letter along with such other arguments, contentions and evidence as appropriate to the City Council in its implementation of this appeal. The Appellant expressly reserves the rights to add additional grounds for appeal and submit additional evidence. In



accordance with the proceeding arguments, we request that the appeal hearing be conducted following certification of the Project EIR and consideration of the Project Major Use Permit Applications by the Planning Commission.

Sincerely,

Matthew Fettig

CC: Dan Keen, Steve Bryan, Clive Moutray, Wilson Wendt, Richard Loewke

Attachments:

1. Miller Starr Regalia Letter of 3/17/16
2. Loewke Planning Associates Letters of 3/09/16 and 1/17/16
3. Draft EIR Chapter 3.4, Cultural Resources (as published September 3, 2015)
4. Draft Project EIR, as Circulated by City of Vallejo September 3, 2015 (Available on City Website at:  
<http://www.cityofvallejo.net/common/pages/DisplayFile.aspx?itemId=673798>)
5. Draft Project EIR F Historic Resources (Available on City Website at:  
<http://www.cityofvallejo.net/common/pages/DisplayFile.aspx?itemId=673836>)



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March 17, 2016

Chairperson Angela McDonald and  
Members of the Architectural Heritage &  
Landmarks Commission  
City of Vallejo  
555 Santa Clara Street  
Vallejo, CA 94590

Re: 790-800 Derr Street; Landmark Designation No. 15-0027

Honorable Chairperson McDonald and Members of the Commission:

Our office represents Vallejo Marine Terminal LLC ("VMT") and Orcem California Inc. ("Orcem"), joint applicants to redevelop the VMT site at the referenced address as a deep water terminal and processing facility for the production of "green" cement (the "Terminal Development"). The site of the Terminal Development is the location of the seven structures recommended in your Staff Report for the March 17, 2016 hearing for designation as City landmarks. This action is premature and contrary to applicable law, including but not limited to the California Environmental Quality Act ("CEQA"). We strongly urge you to defer any action on the designation of these structures until full and complete CEQA review has been completed on the Terminal Development and all of the impacts, environmental and otherwise, of designating these structures has been carefully reviewed.

Our clients filed their applications for the Terminal Development two years ago, and the City prepared and released in September an Environmental Impact Report ("EIR") which, among other things, analyzes the environmental impacts of the Terminal Development upon the site and its structures and most importantly, analyzes potential environmental impacts of leaving these dilapidated structures in place to continue their ongoing negative impacts upon the Mare Island Strait and San Francisco Bay.

A. Designation of These Structures is Not Exempt From CEQA and Requires Full and Complete Analysis Under the EIR Which is Being Finalized: Under the CEQA Guidelines, a "project" consists of the whole of an action that may result in a direct or reasonably foreseeable indirect impact upon the environment. CEQA Guidelines §15378(a). When examining an activity to determine whether it could affect the physical environment, the agency must consider the entire activity that is subject to its approval. *Bozung v. LAFCO* (1975) 13 Cal.3d 263. The Terminal



Development "project" clearly includes the evaluation of the structures on site. Staff is recommending that the historic designation is exempt from CEQA. This is incorrect and constitutes an impermissible "piecemealing" of the examination and analysis of the impacts of the Terminal Development project. A public agency may not divide a single project into smaller individual subprojects to avoid responsibility for considering the environmental impact of the project as a whole. *Orinda Assn. v. Board of Supervisors* (1986) 182 Cal.App.3d 1145.

To treat the designation as separate from the Terminal Development project is to segment the designation of these buildings as a separate part of the project and exempt that from environmental review pursuant to CEQA Guidelines section 15061(b)(3). This is inappropriate and illegal. A Draft EIR has been prepared for the Terminal Development and is being considered by the City Planning Commission. That EIR contains an extensive analysis of the impact of the project upon the structures located upon the site and also investigates the impacts of those structures' continued existence upon the environment. To make a determination on the historic value and appropriate level of protection of these structures without considering the entire EIR is inappropriate. As a part of the approval process for the Terminal Development, the City will carefully review the historic value of these structures.

B. Consultant's Response. The attached letters prepared by Richard T. Loewke identify at least four (4) reasons why the proposed designation may have significant environmental effects. These include:

1. The resulting obligatory retention of decaying wharf remnants which would continue to emit creosote into the waters of the Napa River, thereby causing significant environmental harm to aquatic habitats and aquatic life as disclosed in the EIR.

2. The resulting long-term effect of forced retention of the deteriorating and functionally obsolete mill and silo structures which are unsuitable for reuse, potentially leading to further decay and onset of substantial physical blight.

3. A significant environmental effect resulting from blocking implementation of policies in both the Vallejo General Plan and the San Francisco Bay Plan. The Staff Report does not disclose or analyze the fact that the VMT Site is designated on the Vallejo General Plan for "Employment" uses, and is located in the "Intensive Use Zoning District". It also does not disclose or analyze the fact that this property is specifically designated on the San Francisco Bay Plan as "Water-Related Industry". The General Plan strongly encourages establishment of a use on this property which would "attract new businesses offering high wage jobs" and uses which would facilitate "a higher percentage of residents working in the Vallejo area". The Bay Plan states that "the navigable, deep water sites around the Bay are a unique and limited resource and should be protected for uses requiring deep draft ship terminals, such as water-related industries and ports". The contemplated

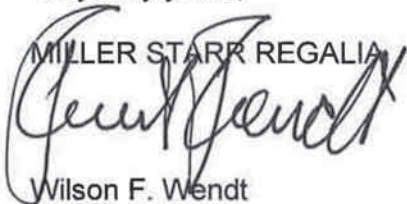
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Members of the Architectural Heritage & Landmarks Commission  
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discretionary landmark designations would effectively preclude improvements needed to establish new water-related employment generating industrial uses on the subject property.

4. Imposition of the resulting Certificate of Appropriateness process and findings requirements which would interfere with the Planning Commission's ability to approve the VMT and Orcem Applications involving establishment of modern Water-Related Industrial uses, thereby conflicting with the City's General Plan and the San Francisco Bay Plan.

Conclusion: Designation of these structures outside of the context of the entitlement process for the Terminal Development is inappropriate. We again urge the Commission to take no action on this matter and continue it until the EIR prepared for the Terminal Development has been finalized and can be reviewed and relied upon by your Commission.

Very truly yours,

MILLER STARR REGALIA  
  
Wilson F. Wendt

WFW:jj

cc: City Manager  
City Attorney  
Clients

March 9, 2016

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**Via Email:** [maplowman@rrmdesign.com](mailto:maplowman@rrmdesign.com)  
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**SUBJECT: Transmittal of Materials to the AHLC for Hearing on 3/17/16  
Pertaining to Vallejo Marine Terminal Site (AHLC File #15-0027)**

Dear Lisa, Andrea and Bill,

I learned from Lisa yesterday that the City is in the process of preparing a revised staff report for consideration by the Vallejo Architectural Heritage & Landmarks Commission at their meeting of March 17<sup>th</sup>. As you know, we submitted a detailed letter for distribution to the Commission on January 19, 2016, in anticipation of a hearing then scheduled for January 21<sup>st</sup>. I subsequently learned from City staff that because the hearing had been re-scheduled, our letter was never transmitted to the Commissioners.

Because we will not have an opportunity to review the new staff report until after your March 17<sup>th</sup> packet is sent to the Commission, we request that this transmittal letter, together with our original comment letter of 1/17/16, be included in the Commission's current packet. We will review the new staff report, and reserve the opportunity to provide additional written comments early next week. In order that the Commission have an opportunity to review our supplemental comments prior to the meeting on 3/17/16, we will ask that our supplemental letter be circulated via email to the Commission.

Our letter of 1/19/16 raises serious procedural and substantive concerns about taking any action on the third-party application for landmark designation affecting the VMT Site. Chief among these concerns is any decision by the AHLC which occurs separate from and uninformed by the EIR which is nearing completion for the VMT Site as a whole. We continue to urge City staff and the Commission to follow the requirements of CEQA, and not take any piecemeal action which could dramatically affect the property and the surrounding environment without first certifying and considering the Final EIR.

Sincerely,



Richard T. Loewke, AICP

CC: Dan Keen, Steve Bryan, Matt Fettig, Clive Moutray  
Attachment: Letter of 1/17/16



January 19, 2016

City of Vallejo Architectural Heritage & Landmarks Commission Members  
Chair, Angela McDonald  
Vice Chair Melissa Bowman  
Member Frank Malifrand  
Member Brendan Riley  
Member Thomas Snyder  
Member Jimmy Genn  
Member Lina Villenas

C/O Mr. Bill Tuikka, Planning Dept.      *Via Email: [Bill.Tuikka@cityofvallejo.net](mailto:Bill.Tuikka@cityofvallejo.net)*

**SUBJECT: Proposed City Landmark Designation for  
Portions of Vallejo Marine Terminal Site (AHLC File #15-0027)**

Honorable Chair McDonald and Commissioners,

Thank you for this opportunity to provide testimony concerning the application by the Vallejo Heritage Foundation seeking City Landmark Designation status for various existing structures on the Vallejo Marine Terminal Site located at 790-800 Derr Avenue. I am a California Environmental Quality Act (CEQA) expert and consultant to Vallejo Marine Terminal, LLC (VMT) and Orcem California (Orcem). VMT and Orcem are the legal owners and applicants engaged with the City since 2013 in formal processing of two Major Use Permit Applications for adaptive reuse of the subject property, involving water-related industrial uses, consistent with the Vallejo General Plan and the San Francisco Bay Plan. The VMT and Orcem Applications directly affect each of the structures addressed in application File #15-0027, and as outlined below and in the attached presentation materials, would be substantially affected by this proposed City Landmark determination.

I have attached a copy of the presentation materials I expect to review with you at the hearing on January 21<sup>st</sup>. While I believe the presentation speaks for itself, I would like to briefly outline several key points which the City Staff Report as posted to the City's website on this matter has failed to address.

1. **General Plan and Zoning:** The Staff Report does not disclose that the VMT Site is designated on the Vallejo General Plan for "*Employment*" uses, and is located in the "*Intensive Use Zoning District*". It also does not disclose that this site is specifically designated on the San Francisco Bay Plan as "*Water-Related Industry*". The General Plan strongly encourages establishment of a use on this property which would "*attract new businesses offering high wage jobs*" and uses which would facilitate "*a higher percentage of residents working in the Vallejo area*". The Bay Plan states that "*the navigable, deep water sites around the Bay are a unique and limited resource and should be protected for uses requiring deep draft ship terminals, such as water-related industries and ports*".

2. **City Landmark Actions Must be Consistent with the General Plan:** The Staff Report does not speak to the necessity under the California Government Code for all Zoning actions (including those under Chapter 16.38) to be internally consistent and also consistent with the General Plan. As you will hear on Thursday evening, approval of any City Landmark Designation to any portion of the VMT Site would effectively preclude alteration or demolition of those decaying structures which are either functionally obsolete or deteriorated beyond any possibility for adaptive reuse. Imposition of the resulting Certificate of Appropriateness process and findings requirements would impact the Planning Commission's ability to approve the VMT and Orcem Applications involving establishment of modern Water-Related Industrial uses, and would therefore be inconsistent with the above General Plan and Bay Plan policies.
3. **The California Environmental Quality Act (CEQA):** The Staff Report in this matter summarily states that the proposed landmark determination action is exempt from CEQA by Guidelines Section 15061(b)(3). This particular statute providing the referenced exemption from CEQA reads as follows:

*“The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.*”

However, CEQA states (and the California courts have consistently held) that where there is a “fair argument” that the action has some potential to result in a significant effect, then the action is not exempt, and it is the responsibility of the lead agency (the City) to conduct environmental review. In this case, environmental review has already been conducted, and an EIR has been prepared (the Staff Report fails to address this fact). Our presentation materials demonstrate why Application #15-0027 should not be considered in a segmented or piecemeal fashion, separately from the EIR and the whole of the project. We have also outlined several additional substantive facts documenting why this proposed Landmark Designation action is not exempt from CEQA.

4. **The Staff Report Utilizes Only a Portion of the Published Draft EIR:** The Staff Report bases its recommendation on a small portion of the Draft EIR for the VMT & Orcem Project – specifically Appendix F, the Historic Resources report prepared under contract with Dudek for the City by Carey & Co. dated 11/10/14. While the references to Draft EIR Appendix F appear to be accurate, they have been taken completely out of context with the full Draft EIR, which addresses an entire range of associated environmental issues, including: (a) Retaining decaying resources which are currently causing significant environmental harm to aquatic life through creosote emissions; and (b) The long-term effect of forced retention of other deteriorating and functionally obsolete structures which are unsuitable for reuse, potentially leading to further decay and physical blight – a court-held significant environmental effect. In

addition, there is no reference in the Staff Report to the Alternatives Chapter of the published Draft EIR which addresses the potential for reuse of several of the historically significant structures for which landmark protection is proposed.

5. **History Section Incomplete:** Page 3 of the staff report presents what is entitled a “Brief History of the Site” which merely paraphrases Draft EIR Appendix F, and therefore fails to explain that the former mill was closed over a decade ago, following a period of lengthy decline, was subsequently acquired by VMT, and is now the subject of two zoning applications (Major Use Permits) for which a Draft EIR has been prepared and published. It fails to present any of the critical evidence or background information regarding the current condition of any of the structures on the VMT Site or their current usage.
6. **No Consideration of Landmark Designation Consequences:** Page 5 of the Staff Report correctly describes the procedural consequence of designating existing structures as “City Landmarks”, namely that a “Certificate of Appropriateness” would then be required of the property owner before he could seek to demolish or alter the designated structures in any way. However, the Staff Report does not disclose the substantive effect of this action to preclude approval or implementation of the VMT and Orcem Applications by making them in conflict with the findings required by the AHLC in order to issue the Certificate of Appropriateness.
7. **Appended 2008 Carey Report Out of Date and Superseded:** Appended to the Staff Report are both Draft EIR Appendix F (prepared under contract with Dudek for the City by Carey & Co. dated 11/10/14) and the superseded April 15, 2008 Carey Report prepared under contract with Brooks Street. The Staff Report does not explain that this earlier document is no longer accurate, as disclosed in the published Draft EIR.
8. **Criteria Disclosed for Approval of Application:** Page 5 of the Staff Report recites four criteria under which a property may be designated by the Commission as City Landmark under Zoning Ordinance Section 16.38.150. It fails to inform the Commission of its obligations in considering such an action of the necessity to also: (1) Address consistency with the Vallejo General Plan (and by inference, the San Francisco Bay Plan); (2) Consider the requirements under Section 16.38.240B relating to the feasibility of rehabilitation for such structures; (3) Consider the consequences on reuse potential for any such structure designated as a Landmark under Section 16.38.290 (the Certificate of Appropriateness obligation which would be imposed); (4) Consider Section 16.38.300B3a which discourages a Landmark Designation if it would impede a major improvement program which substantially benefits the City; and finally (5) Consider Section 16.38.310C which discourages Landmark Designation where it is not feasible to preserve or restore such structures (as the Wharf, Mill and Silos).

January 19, 2016

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In conclusion, on behalf of the property owner, I would like to express our appreciation for your careful consideration of the foregoing issues and the attached presentation materials. We respectfully submit to you that Application #15-0027 should be denied based on its conflict with the Vallejo General Plan and the Bay Plan, and its potential for significant damage to the environment. Further, we respectfully urge the Commission to follow the requirements of CEQA by reviewing the entirety of the Final EIR for the project as a whole before taking any further piecemeal actions.

Sincerely,



Richard T. Loewke, AICP

Cc: Andrea Ouse  
Lisa Plowman  
Matt Fettig, Vallejo Marine Terminal  
Steve Bryan, Orcem California

Attachment: Loewke Presentation AHLC 012116

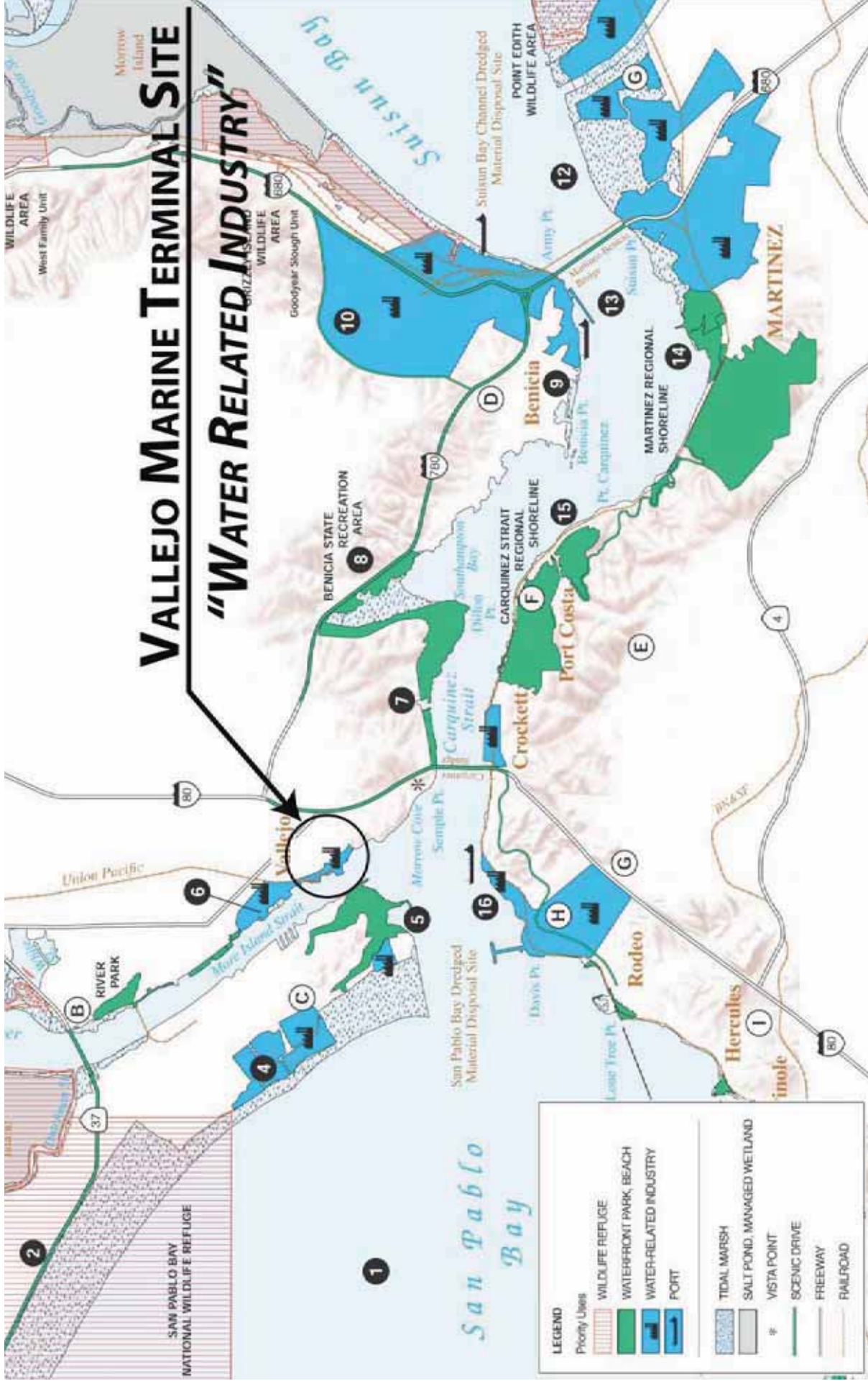




**CITY OF VALLEJO AHLC HEARING  
JANUARY 21, 2016**

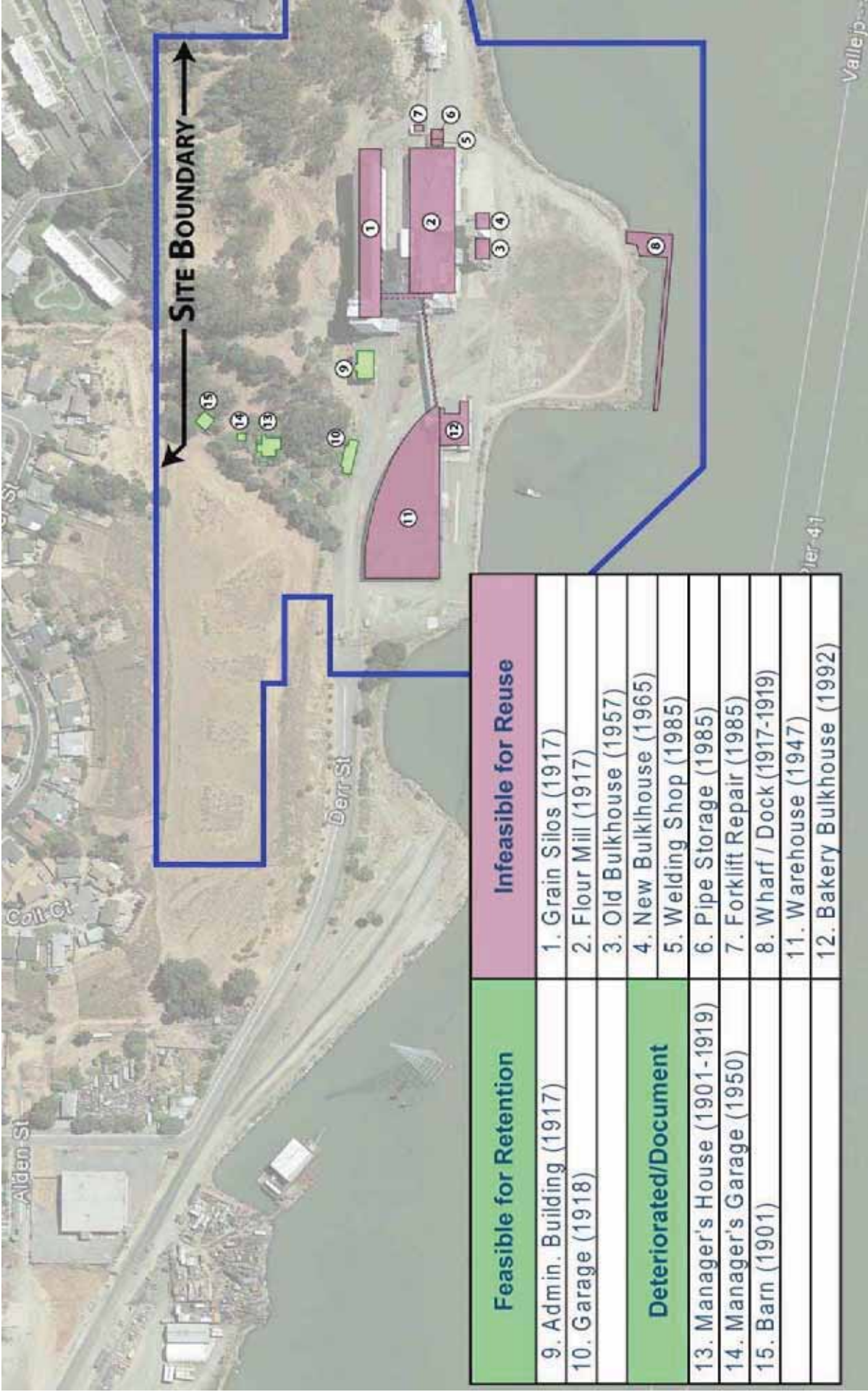
**VALLEJO MARINE TERMINAL SITE, THE DECISION:  
RETAIN DETERIORATED STRUCTURES OR  
FACILITATE ECONOMIC DEVELOPMENT & REUSE?**





# BCDC SAN FRANCISCO BAY PLAN





Feasible for Retention	Infeasible for Reuse
9. Admin. Building (1917)	1. Grain Silos (1917)
10. Garage (1918)	2. Flour Mill (1917)
	3. Old Bulkhouse (1957)
	4. New Bulkhouse (1965)
	5. Welding Shop (1985)
13. Manager's House (1901-1919)	6. Pipe Storage (1985)
14. Manager's Garage (1950)	7. Forklift Repair (1985)
15. Barn (1901)	8. Wharf / Dock (1917-1919)
	11. Warehouse (1947)
	12. Bakery Bulkhouse (1992)

# INVENTORY OF EXISTING STRUCTURES ON VALLEJO MARINE TERMINAL SITE



## Condition and Suitability of Buildings

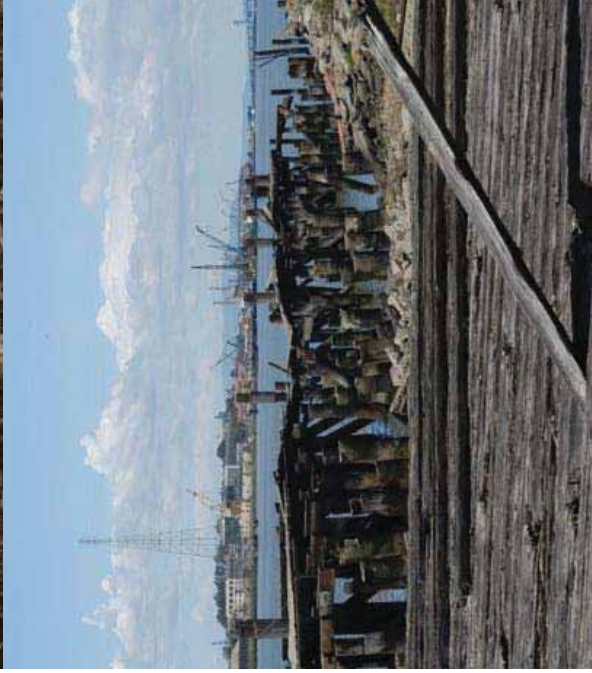
- **Mill and Silos (1917): Purpose-built and severely deteriorated**; They are functionally obsolete, with no economic reuse potential.
- **Administration Building (1917): In sound condition and adaptable for office use**.

# CONTRASTING OPPORTUNITIES FOR ADAPTIVE REUSE OF BUILDINGS



## Status of Existing Wharf (1917-1919)

- Creosote wood pilings and dock remnants severely deteriorated.
- Continuous release of toxic fragments threaten marine invertebrates, fish, and marine mammals (as documented in DEIR).
- Adaptive reuse of site for modern Water-Related Industrial use requires replacement of old wharf.



# DETERIORATED WHARF PRECLUDES WATER RELATED INDUSTRY



- **Barn (1901)** located upslope from the usable Industrial Site: Unstable and Deteriorated.
- **Manager's House (1901-1919)** located on hillside above Industrial Site: Unstable and Deteriorated.
- **Administration Building (1917)** set at base of slope where it will not impede Industrial Uses: In sound condition for adaptive reuse, symbolizes historic use of site.
- **Garage (1918)** directly adjoining the Admin. Building: Suitable for adaptive reuse and architecturally linked to Admin. Building.

## BUILDINGS SEPARATED FROM INDUSTRIAL SITE 6



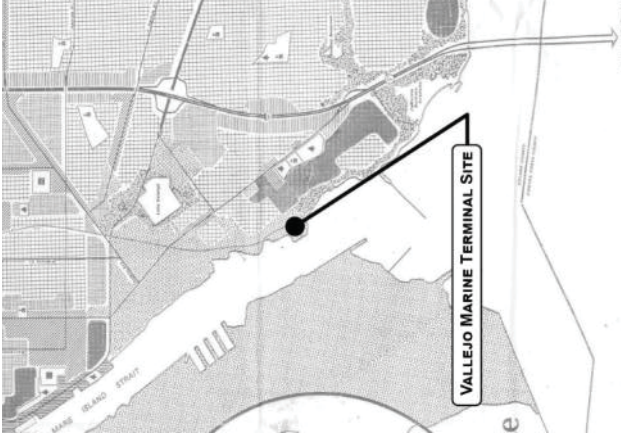
## Code Chap. 16.38 Historic Preservation &

### Landmark Designation

- It is the intent of the city council to achieve “*maximum feasible rehabilitation*”; This is not possible under a Landmark designation which precludes removal of deteriorated and functionally obsolete buildings (Sec. 16.38.240B).
- Landmark status would require a “*Certificate of Appropriateness*” for alteration or demolition of structures unsuited for economic reuse, thus impeding establishment of viable Water-Related Industrial uses (Sec. 16.38.290).
- AHLC should not preclude alteration or demolition of structures resulting in “*a deterrent to a major improvement program which substantially benefits the City*” (Sec. 16.38.300B3a).
- Demolition is appropriate where “*the structure is in such condition that it is not feasible to preserve or restore it, taking into consideration the economic feasibility of alternatives to the proposal, and balancing the interest of the public in preserving the designated landmark or portion thereof, and the interest of the owner of the landmark site in its utilization*” (Sec. 16.38.310C).



# FUNCTIONAL & PHYSICAL IMPOSSIBILITY FOR ADAPTIVE REUSE

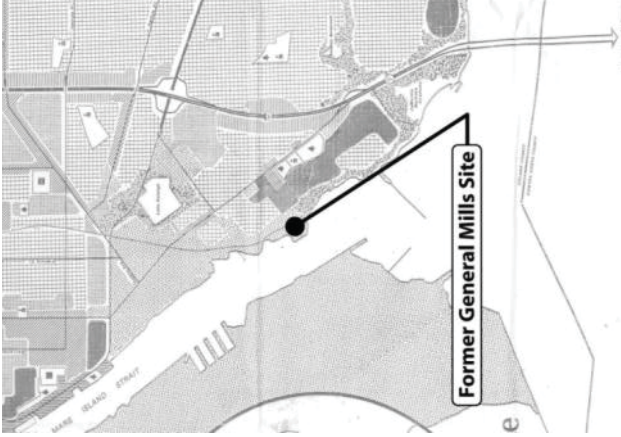


## AHLC Action Should be Consistent with the General Plan

- **Vallejo General Plan Policies:**
  - ✓ Designates Vallejo Marine Terminal Site as “Employment”.
  - ✓ Policies accommodate Water-Related Industrial Uses consistent with San Francisco Bay Plan.
  - ✓ Land Use Element Goal #1 calls for: “A higher percentage of residents working in the Vallejo area.”
  - ✓ Economic Development Element Goal #1 calls for the City to: “Attract New Businesses Offering High Wage Jobs.”
- **San Francisco Bay Plan Policies:**
  - ✓ Designates Vallejo Marine Terminal Site for development and use as “Water-Related Industry.”
  - ✓ “The navigable, deep water sites around the Bay are a unique and limited resource and should be protected for uses requiring deep draft ship terminals, such as water-related industries and ports.”

# LANDMARK ACTION & GENERAL PLAN CONSISTENCY





## AHLC Action Should be Consistent with the General Plan

- **The Vallejo Marine Terminal Will:**
  - ✓ Lead Vallejo's employment growth rate.
  - ✓ Compliment the local Maritime Academy education program.
  - ✓ Provide a substantial number of high-wage jobs.
  - ✓ Embodies the Federal program to develop a Marine Highway for the import, export and movement of materials that are critical to the growth of the United States economy.
- **California Government Code:** Local zoning actions (including Chap. 16.38 actions) must be consistent with the General Plan. A Landmark designation on any portion of the Vallejo Marine Terminal site would be inconsistent with General Plan because it would:
  - ✓ Preclude additional employment and “a higher percentage of residents working in the Vallejo area”.
  - ✓ Block the ability to “Attract New Businesses Offering High Wage Jobs”.

# LANDMARK ACTION & GENERAL PLAN CONSISTENCY



- Existing Wharf, Mill and Silos severely damaged and impede any feasible economic reuse of site for Water-Related Industrial use.



- Example of adaptive reuse of site for modern Water-Related Industrial use, including preservation of Admin. Building & Garage.

## RETAIN DETERIORATED STRUCTURES OR FACILITATE ECONOMIC DEVELOPMENT & REUSE?

10



## Requirements of CEQA

- Action by the AHLC to consider a Landmark Designation is a “**discretionary action**”, as defined by CEQA which requires thoughtful analysis (A non-exempt “**project**”).
- Guidelines Sec. 15003(h) requires that: “**The lead agency must consider the whole of an action, not simply its constituent parts, when determining whether it will have a significant environmental effect.**” This application directly affects the same property which is the subject of Major Use Permit applications for which a Draft EIR has been published.
- PRC Code Sec. 21159.27: “**A project may not be divided into smaller projects to qualify for one or more exemptions pursuant to this article.**” Thus the AHLC may not consider a Landmark designation without concurrent consideration of the EIR and project as a whole.
- Guidelines Sec. 15025(c) mandates that when making a recommendation or decision on a project, the advisory or decision-making body “**shall also review and consider the EIR ... in draft or final form**”. This has not yet taken place.
- Any Landmark designation would fundamentally alter the feasibility of the project analyzed in the Draft EIR for this property, and would therefore violate Guidelines Sec. 15088.5(a)(2-4).

# COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT



## The AHLC Should Consider the Following for Consistency with CEQA

1. **Review the entirety of the project EIR** before considering this piecemeal application.
2. **Consider the broader environmental effects** of a Landmark designation, including inconsistency with the General Plan & SF Bay Plan by precluding employment, and blocking reestablishment of Water-Related Industrial uses on this site.
3. **Consider the direct long-term environmental effects** of a Landmark designation, including significant harm caused to special-status aquatic life resulting from precluding the removal of hundreds of deteriorating creosote pilings.
4. **Consider the long-term indirect significant effects** of a Landmark designation, including potential inducement of blight caused by sustained vacancy of deteriorating and decaying facilities.
5. Following each of the above actions, submit your opinion in the form of a **recommendation to the Planning Commission** (the project decision-making body).

# COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

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## Conclusions on Proposed Landmark Action

- Any Landmark designation would *preclude economically feasible reuse of existing structures*, inconsistent with the purposes of Chapter 16.38 and the Vallejo General Plan.
- Application for Landmark designation is **subject to CEQA** and may not be recommended for approval without concurrent consideration of the EIR and overall project.
- Landmark designation would **have significant environmental** effect, including harming biological resources, inducing significant blight, precluding employment, and blocking reestablishment of Water-Related industrial uses as called for under the Bay Plan.
- **Application should be denied**, allowing the Planning Commission to consider both the overall project (including feasible protection of historic resources) and those feasible alternatives which are consistent with the Vallejo General Plan and Bay Plan.

## CONCLUSION

## 3.4 CULTURAL RESOURCES

This section analyzes the potential impacts of the Vallejo Marine Terminal (VMT) and Orcem projects (proposed project) with respect to cultural resources and recommends mitigation measures where necessary to reduce or avoid significant impacts. The information provided in this section is based on the *Historic Resources Evaluation Report for the Sperry Flour Company Site* prepared by Carey and Co. Inc. in 2008 and updated in 2014 (Appendix F) and an archaeological resource investigation completed by Dudek in 2014 (Appendix G). All figures referenced in this section are provided at the end of the section.

### 3.4.1 Regulatory Setting

#### Federal

##### *National Historic Preservation Act*

The National Historic Preservation Act (16 U.S.C. 470 et seq.) establishes the nation's policy for historical preservation and sets in place a program for the preservation of historical properties by requiring federal agencies to consider effects to significant cultural resources (e.g., historical properties) prior to undertakings.

Section 106 of the National Historic Preservation Act requires federal agencies to take into account the effects of projects on historical properties (resources included in or eligible for the National Register of Historic Places (NRHP)). It also gives the Advisory Council on Historic Preservation and the State Historic Preservation Office an opportunity to consult. Federal agencies issuing permits for the proposed project will be required to comply with National Historic Preservation Act requirements.

##### *Executive Order 11593, Protection and Enhancement of the Cultural Environment*

Executive Order 11593 (36 FR 8921) (1) orders the protection and enhancement of the cultural environment through requiring federal agencies to administer the cultural properties under their control in a spirit of stewardship and trusteeship for future generations; (2) initiates measures necessary to direct their policies, plans, and programs in such a way that federally owned sites, structures, and objects of historical, architectural, or archaeological significance are preserved, restored, and maintained for the inspiration and benefit of the people; and (3) in consultation with the Advisory Council on Historic Preservation, institutes procedures to assure that federal plans and programs contribute to the preservation and enhancement of non-federally owned sites, structures, and objects of historical, architectural, or archaeological significance.

## State

### *California Public Resources Code*

California Public Resources Code Sections 5097–5097.6 stipulate that the unauthorized disturbance or removal of archaeological, historical, or paleontological resources located on public lands is a misdemeanor. It prohibits the knowing destruction of objects of antiquity without a permit (expressed permission) on public lands and provides for criminal sanctions. This section was amended in 1987 to require consultation with the Native American Heritage Commission (NAHC) whenever Native American graves are found. Violations for taking or possessing remains or artifacts are felonies.

California Public Resources Code Section 5097.5 states that “no person shall knowingly and willfully excavate upon, or remove, destroy, injure, or deface, any historic or prehistoric ruins, burial grounds, archaeological or vertebrate paleontological site, including fossilized footprints, inscriptions made by human agency, rock art, or any other archaeological, paleontological or historic feature situated on public lands, except with the express permission of the public agency having jurisdiction over the lands.”

### *California Register of Historical Resources*

The California Register of Historical Resources (CRHR) is used in the consideration of historical resources relative to significance for purposes of the California Environmental Quality Act (CEQA). The CRHR includes California State Historical Landmarks, eligible Points of Historical Interest, and resources listed, or formally determined eligible for listing, in the NRHP. Properties of local significance that have been designated under a local preservation ordinance (local landmarks or landmark districts), or that have been identified in a local historical resources inventory, may be eligible for listing in the CRHR and are presumed to be significant resources for purposes of CEQA unless a preponderance of evidence indicates otherwise.

Generally, a resource shall be considered by the lead agency to be “historically significant” if the resource meets the criteria for listing in the CRHR (California Public Resources Code Section 5024.1; 14 CCR 4852), consisting of the following:

1. It is associated with events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California or the United States; or
2. It is associated with the lives of persons important to local, California, or national history; or
3. It embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of a master, or possesses high artistic values; or
4. It has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California, or the nation.



Evaluation for eligibility to the CRHR requires an establishment of historic significance before integrity is considered. There are seven aspects of integrity including the following: location, design, setting, materials, workmanship, feeling, and association. Definitions of these seven aspects are provided below.

*Integrity* is the authenticity of a historical resource's physical identity as evidenced by the survival of characteristics or historic fabric that existed during the resource's period of significance. Integrity is evaluated with regard to the retention of location, design, setting, materials, workmanship, feeling, and association. The question of integrity is answered by whether or not the property retains the identity for which it is significant.

*Location* is the place where the historic property was constructed or the place where the historic event occurred. The relationship between a property and its historic associations will be destroyed if the physical characteristics of the historic property no longer exist.

*Design* is the combination of elements that create the form, plan, space, structure, and style of a property.

*Setting* is the physical environment of a historic property. Setting refers to the character of the place in which the property played its historical role. It involves how, not just where, the property is situated and its relationship to surrounding features and open space. Setting often reflects the basic physical conditions under which a property was built and the functions it was intended to serve.

*Materials* are the physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a historic property.

*Workmanship* is the physical evidence of the crafts of a particular culture or people during any given period in history or prehistory. Workmanship is generally not used as a measure of integrity when looking at areas, sites, and districts. It is not evaluated here as the historic resources on site do not present physical evidence of a craft, artisan's labor or skill, or innovative period techniques.

*Feeling* is a property's expression of the aesthetic or historic sense of a particular period of time. Feeling results from the presence of physical features that, taken together, convey the property's historic character.

*Association* is the direct link between an important historic event or person and a historic property. A property retains association if it is the place where the event or activity occurred and is sufficiently intact to convey that relationship to an observer.

California’s list of special considerations includes some allowances for moved buildings, structures, or objects, as well as lower requirements for proving the significance of resources that are less than 50 years old and a more elaborate discussion of the eligibility of reconstructed buildings.

In addition to separate evaluations for eligibility to the CRHR, the state will automatically list resources if they are listed or determined eligible for the NRHP through a complete evaluation process.

The California Historic Resource Status Codes (status codes) are a series of ratings created by the State Historic Preservation Office to quickly and easily identify the historic status of resources listed in the state’s historic properties database. These codes were revised in August 2003 to better reflect the many historic status options available to evaluators. The following are the seven major status code headings:

- Properties listed in the National Register or the California Register.
- Properties determined eligible for listing in the National Register or the California Register.
- Appears eligible for National Register or California Register through Survey Evaluation.
- Appears eligible for National Register or California Register through other evaluation.
- Properties recognized as historically significant by local government.
- Not eligible for listing or designation.
- Not evaluated for National Register or California Register or needs reevaluation.

### ***California Environmental Quality Act***

CEQA requires lead agencies to determine if a proposed project would have a significant effect on archaeological resources (California Public Resources Code, Sections 21000 et seq.). As defined in Section 21083.2 of the California Public Resources Code, a “unique” archaeological resource is 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 meets any of the following criteria:

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

In addition, CEQA Section 15064.5 broadens the approach to CEQA by using the term “historical resource” instead of “unique archaeological resource.” The CEQA Guidelines recognize that certain historical resources may also have significance. Further, the CEQA Guidelines recognize that a historical resource includes: (1) a resource in the California Register; (2) a resource included in a local register of historical resources, as defined in Public Resources Code Section 5020.1(k), or identified as significant in a historical resource survey meeting the requirements of Public Resources Code Section 5024.1(g); and (3) any object, building, structure, site, area, place, record, or manuscript 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, provided the lead agency’s determination is supported by substantial evidence in light of the whole record.

If a lead agency determines that an archaeological site is a historical resource, the provisions of Section 21084.1 of the California Public Resources Code and Section 15064.5 of the CEQA Guidelines apply. If an archaeological site does not meet the criteria for a historical resource contained in the CEQA Guidelines, then the site is to be treated in accordance with the provisions of California Public Resources Code Section 21083.2, and is considered a unique archaeological resource. The CEQA Guidelines note that if an archaeological resource is neither a unique archaeological resource nor a historical resource, the effects of the project on those resources shall not be considered a significant effect on the environment (CEQA Guidelines, Section 15064.5(c)(4)).

### ***California Health and Safety Code***

California law protects Native American burials, skeletal remains, and associated grave goods, regardless of their antiquity, and provides for the sensitive treatment and disposition of those remains. The California Health and Safety Code, Section 7050.5, requires that if human remains are discovered in any place other than a dedicated cemetery, no further disturbance or excavation of the site or nearby area reasonably suspected to contain human remains shall occur until the county coroner has examined the remains (Section 7050.5b). If the coroner determines or has reason to believe the remains are those of a Native American, the coroner must contact the NAHC within 24 hours (Section 7050.5c). The NAHC will notify the Most Likely Descendant. With the permission of the landowner, the Most Likely Descendant may inspect the site of discovery. The inspection must be completed within 24 hours of notification of the Most Likely Descendant by the NAHC. The Most Likely Descendant may recommend means of treating or disposing of, with appropriate dignity, the human remains and items associated with Native Americans.

## Local

### *City of Vallejo General Plan*

The following goals, objectives, and policies in the City's General Plan (City of Vallejo 1999), are applicable to cultural resources.

*Historic Preservation Goal:* Preserve and improve historically and architecturally significant structures and neighborhoods.

#### Objectives:

1. Develop pride and awareness of Vallejo's heritage, both locally and elsewhere.
2. Assist property owners in the restoration of significant buildings.
3. Protect significant buildings from exterior alterations that would diminish their historic or architectural significance.
4. Prevent the demolition of significant buildings when it is economically feasible to restore them.

#### Policies:

1. Promote Vallejo's heritage.
2. Assist property owners in their restoration efforts. This includes providing information on preservation resources and assisting in the placement of structures on the National Register of Historic Places.
3. The City will regulate changes in the exteriors of structures in the Heritage District, Historic District, and designated City landmarks to enhance the value of Vallejo's heritage.
4. The State Historic Building Code will be used as permitted by state law and the State's Architect's Office on any structure on the Historic Resources Inventory or in the Architectural Heritage and the St. Vincent's Historic Districts.

## 3.4.2 Existing Conditions

### Historical Setting

#### *Site History*

In 1869, Abraham Dubois Starr convinced the Southern Pacific Railroad to extend tracks to the current project area in Vallejo, on which Starr subsequently constructed a flour mill, dock, and warehouse. Starr deemed the site ideal for a flour mill because of its proximity to Mare Island



and Mare Island Strait, which created easy access to both the San Francisco Bay and, hence, the Pacific Ocean, as well as to the San Joaquin Delta, which provided water access to inland California. The railroad extension connected the site to the newly completed transcontinental railroad, which, in turn, connected the mill to all points along that route, from the Pacific to the Atlantic. Only portions of the Starr Mill and dock remain, but the site served continuously from 1869 to 2004 as one of the most important flour mills in California. Port Costa Flour Company bought the property in 1895, followed by Sperry Flour Company in 1910. At the time, Sperry Flour Company was the largest grain products and flour milling corporation on the Pacific Coast, and eventually the third largest flour company in the nation. Four of the historically significant buildings at the site – the mill, silos, administrative building, and garage – were built during World War I in response to the Allies’ significantly increased demand for American-made flour. Because it had the most modern facilities and participated in the wartime effort to supply flour to soldiers and civilians in the United States and abroad, the Vallejo plant was the most significant in the Sperry empire. The manager’s house, a model of the First Bay Area Tradition, predated these buildings, but achieved its current form during this same period of wartime expansion. General Mills Corporation acquired Sperry Company and the Vallejo site in 1929 and made relatively minor changes. Apart from a few very brief stoppages, mills at the site continuously produced flour and feed for 135 years.

While the history of this site in the flour milling industry dates back to 1869, its period of significance extends from 1917 to 1920, the period when the flour milling facility was greatly expanded in response to the increased demand for American flour spurred by World War I. The United States government strictly curtailed construction activities during World War I to projects that directly benefited the war effort, and increased national and international demand for flour during the war prompted the construction of the mill, silos, administrative building, and garage at Sperry’s Vallejo site. In keeping with its newly achieved status as the mill of greatest importance within the Sperry Flour Company empire, the company also remodeled the manager’s house, enlarging it to conform with the then popular Bay Tradition style of domestic architecture. Increased production capacity at the mill rendered the original Starr Mill and warehouse inadequate, so the company also added on to the warehouse and wharf. Although that building and warehouse disappeared long ago, the extant pilings and dock date at the latest to this period of significance. Some of the pilings may date to as early as 1869. The Vallejo site’s importance within the Sperry Flour Company had waned by the mid-1920s.

Few changes occurred to the Sperry Flour Company site before World War II, with the exception of a fire on August 30, 1934, that destroyed the bulkhouse that dated to between 1910 and 1916.

The site’s architecture, along with its nearly 150-year association with flour milling for the most powerful flour companies in California and the nation, and its intimate associations with World War I render the Sperry Flour Company a valuable historic resource.

### *Existing Structures*

The 2008 Historic Resources Evaluation Report for the Sperry Flour Company Site identified six structures (flour mill, grain silos, administrative building, garage, manager's house, and dock) that were potential historic resources with a California Historic Resource Status Code of 3S, Appears Eligible for National Register or California Register through Survey Evaluation. In October 2014, Carey and Company verified and reevaluated the historical status of these same structures. The reevaluation resulted in a modification to the status of the historic resources, and changes the historical status of the structures from structures individually eligible for listing in the NRHP to contributing resources to a potential Sperry Flour Mill Historic District. In addition, Carey and Company added one other structure, the barn, to the list of contributing resources (see Figure 3.4-1, Historical Resources Survey Map). The Sperry Flour Mill is considered a *potential* historic resource because the buildings have not gone through a formal designation process and are not listed on any local, state, or federal register of historic resources. However, as described in Section 3.4.1, the CEQA Guidelines recognize that a historical resource includes resources identified as significant in a historical resource survey meeting the requirements of California Public Resources Code Section 5024.1(g).

Contributing resources include buildings, structures, and objects that define the historic integrity and physical character that make a potential historic district eligible for listing in the CRHR. Contributing properties are considered integral parts of the historic context of multiple resource properties and key to historic associations, feeling, setting, and its historic architectural qualities. The complex of seven former Sperry Flour Company buildings creates an industrial site dating to World War I during which time the site experienced expansion.

The project area includes 16 structures, each of which is described below, in order of (sometimes estimated) date of construction. The location of these structures is shown on Figure 3.4-1, Historical Resources Survey Map.

#### Wood Dock and Wood Pilings – c. 1869–1919

Pilings associated with the dock upon which the original Starr Mill warehouse stood run along the central western portion of the site. Horizontal planks cover the pilings at the most southwesterly corner and feature markings where railroad tracks once ended.

The dock retains integrity of location, setting, and association, having never been moved and still adjacent to an industrial site. While the dock's integrity of design, materials, workmanship, and feeling have been compromised by the loss of considerable material, this loss does not prevent this simple dock structure from conveying its historic significance. This dock conceivably tells a story of the mill site from its earliest days in 1869 and appears to be eligible for the California Register under criterion 1 as a contributing structure to a potential historic district.

### Manager's House – c. 1901, altered c. 1917 and after 1919

The manager's house dates to the early 1900s. The current look and plan of the building date to around 1917, during the period of significance for the site. Sperry Flour Company enlarged the house to accommodate a manager of the then most important facility within the company's flour empire. The house also embodies defining characteristics of the First Bay Area Tradition, a regional style that influenced domestic architecture for nearly a century and which contributed to the emergence of a regional identity. Set apart from the industrial buildings, the house creates a sylvan contrast to the modern industrial landscape. Clad with unpainted brown shingles and adorned with no exterior decoration, the house blends into the landscape and allows the natural setting to provide ornamentation.

The manager's house has undergone numerous alterations over the years. Despite these changes, Carey and Company has determined that this structure retains sufficient integrity to convey its historic significance. Alterations to the structure are not obvious upon viewing it; Carey and Company had to compare Sanborn maps to periodize them and determine how exactly the building changed over time. The earliest images of this building indicate that it has always been clad with unpainted wood shingles, making it an early example of the First Bay Area Tradition. Subsequent alterations have always respected this historical precedent, allowing the building to continue to express historical character. Moreover, the most significant alterations were made 90 years ago, and although the house has deteriorated, the structure as it appeared then remains largely uncompromised. This house, therefore, exudes an overall historical character that dates to World War I, the period of significance to which the other historical buildings at the plant belong. The manager's house appears to be eligible for the CRHR under criteria 1 and 3 as a contributing structure to a potential historic district. It should be noted that the house is in a state of substantial disrepair.

The driveway leading up to the manager's residential complex is lined with rock walls on the north side. The construction date of the rock walls has not been determined. Thus, the rock walls may or may not have been constructed within the period of significance. Since no definitive construction date of the walls was found, they are not a contributing resource to a potential historic district.

### Barn – c. 1901–1919

Sanborn maps indicate that the barn was constructed between 1901 and 1919. The barn was part of the manager's residential complex on the site. The corrugated metal cladding may not be original to the structure, but the building retains sufficient integrity with its wood sash windows and overall form. Since the barn is directly linked to the residential complex of the site manager and was used by the site manager during the heyday of the plant's operation, the building may be



eligible for the CRHR under criterion 1 as a contributing structure to a potential historic district. This structure is also in a state of severe disrepair.

#### Grain Silos and Elevator – 1917

Like the mill, the silos derive historical significance from their association with World War I and the emergence of the Vallejo plant as the most important facility in the most important grain milling corporation of the Pacific Coast. These silos, built in the most modern methods, allowed the mill to store the grain necessary to produce flour for American and European soldiers and civilians, and their monumental scale speaks to massive quantity of flour that the mill was expected to produce. The location of the silos, directly behind the mill, further underscores the intimate relationship between the two buildings and their common function to produce flour on an unprecedented scale for both the Vallejo mill and the Sperry Flour Company.

Also like the mill, the silos retain a high level of integrity. With the exception of metal slider windows replacing some multi-lite awning windows within the large, multi-lite fixed metal windows of the top stories of the building, the silo remains virtually unchanged since its construction in 1917–1918. This lends the silos integrity of design, materials, and workmanship. The scale and location of the silos directly behind the mill remains intact as well, fostering integrity of setting, association, and feeling. This high level of integrity enables the silo to convey its historic relationship to the mill, their collective contribution to World War I, and the significance of the Sperry Flour Company in California and the grain industry. The grain silos appear to be eligible for the CRHR under criterion 1 as a contributing structure to a potential historic district.

#### Administrative Building – 1917

Built in 1917, the administrative building belongs to the site's period of significance (1917–1920) and reflects the significant growth of the plant both in size and prestige within the Sperry Flour Company and milling industry. Like the mill and silos, the administrative building reflects a relatively early example of reinforced concrete construction. Even more than the mill and silos, this building demonstrates early efforts to use concrete for aesthetic purposes rather than just functional ones. Particularly notable elements include the raised relief on the cornice, the inset panels on the window surrounds, molded detailing at the base of the building, and the pilasters, pediment, and entablature of the entry surround. These classical features also contribute to the historic feeling of the building.

The building retains a high level of integrity. It has not been moved, and its surroundings have changed little since it was constructed, lending the building integrity of location, setting, and association. The building has undergone some alterations, including the addition of metal awnings, filling in of some rear windows, and replacement of the front door and windows. While

these alterations affect integrity of materials and workmanship, they are easily reversible and do not affect integrity of design, scale, plan, or overall expression of the aesthetic and historic feeling of the building. The building retains sufficient integrity to convey its historic significance. The administrative building appears eligible for the CRHR under criteria 1 and 3 as a contributing building to a potential historic district.

#### Flour Mill – 1917

Architecturally, the Flour Mill building is a relatively early example of reinforced concrete skeletal frame construction, which allowed for more windows and, therefore, natural light and ventilation in a factory environment. The brick cladding, entablature, and parapet also reflect an effort to combine aesthetics with function in industrial design, as well as experimentation with the aesthetic potential of concrete itself. The building's relationship to the mill further enhanced the architectural composition of the mill. Located directly in front of the silos and with a hillside serving as a backdrop, the mill not only produced flour, but created an unusually picturesque statement for industrial architecture. The mill is also significant for its association with World War I, a defining event of the twentieth century and an event of international importance. Since the federal government curtailed most construction not related to the war effort, it is entirely likely that the mill would not have been built if it had not been for the importance of and need for American grain milling capacity during that period. Whereas the Sperry Company initially intended to build a simple warehouse for its old mill, demand for flour during wartime prompted the company to build the most modern facility possible, which allowed it to mill grain at a rate necessary to feed American and European soldiers and civilians alike. Subsequent to the war, the new mill also catapulted the Vallejo plant to the most important position in the pantheon of the most powerful Pacific Coast milling company's numerous facilities.

The building has undergone some alteration. Almost all of the windows are non-original, as are the metal awnings, rooftop mechanical units, a conveyor shed from the mill to the bakery warehouse, and a partially enclosed passageway supported by metal posts and clad with corrugated fiberglass sheets that is located at the northwest end of the building. The conveyor shed at the northwest end of the building dates to the construction of the mill, but does not retain a high level of integrity; it has been truncated and reclad.

While these alterations affect the mill's integrity of materials, design, and workmanship, the mill retains sufficient integrity to convey its architectural and historic significance. Alterations have occurred mostly to secondary features, and nearly all are reversible. Moreover, the building retains its original scale, plan, and overall design. In addition, the building has not been moved, and its setting, on the narrow strip of bedrock next to the Mare Island Strait with the silos and hillside serving as backdrop, has changed little, leaving the building with integrity of location, setting, feeling, and association. These factors enable the mill's ability to express its aesthetic

intent, its function as a mill, and its historic role as the most important mill in the Sperry Flour Company during World War I and its immediate aftermath. The flour mill appears to be eligible for the CRHR under criteria 1 and 3 as a contributing building to a potential historic district.

#### Garage – 1918

The garage is the fourth and last structure on site to be built specifically in response to wartime demand for flour in the United States and Europe. Like the mill and administrative building, it is a reinforced concrete structure that combines aesthetic and functional considerations. The building retains a high level of integrity. Alterations include non-original roll-up doors and bricking in of one bay. Otherwise, the structure retains integrity of location, design, setting, materials, and workmanship, which contributes to its ability to express the aesthetics of the period in which it was built and its association with Sperry Flour Company's expansion at the Vallejo plant in the wake of increased demand for flour during World War I. The garage appears eligible for the CRHR under criteria 1 and 3 as a contributing building to a potential historic district.

#### Warehouse – 1947

Although this building was completed in 1947 and therefore falls within the 50-year threshold for consideration for the CRHR, it falls well outside the period of historical significance of the mill site. Its style reflects post-World War II industrial architecture, but is not the work of a master or a rare and/or exceptional example of such postwar architecture that conveys a significant level of historical feeling in and of itself. As the architectural style does not conform to that of the property's period of historical significance, it does not contribute to the historical feeling of the site. The building retains a high level of integrity, having undergone few significant alterations. The conveyor shed and bulkhouse adjacent to the building detract, however, from its historical integrity, as the former originally connected the building to the old Starr Mill and warehouse, while the latter did not exist until 1992. Because it is not associated with the site's period of historic significance, this building does not appear to be eligible for the CRHR.

#### Manager's Garage – c. 1950s

Sanborn maps indicate that a structure was built at this location between 1901 and 1919 and that this structure had an L-shaped plan. Its date of origin may therefore fall within the period of significance for the site of the former Sperry Flour Company mill. The current structure has a rectangular plan, suggesting that it has been altered significantly or is non-original and dates to some point after 1950. These factors alone highly compromise the historic integrity of the building. It does not retain sufficient integrity to convey its historical significance, and Carey and Company has determined that it is ineligible for the CRHR.



### Old Bulkhouse – c. 1957

The old bulkhouse is 50 years old, just meeting the age requirement for the CRHR and NRHP. It has one notable feature: corrugated asbestos cladding. However, this material was not new to industrial design, and otherwise the building does not exhibit architectural distinction, is not associated with the life of an important person, will not yield information important to prehistory or history, and is not associated with significant events in the life of the property, city, state, or country. Therefore, Carey and Company has determined that the structure is not eligible for the CRHR.

### New Bulkhouse – c. 1965, Forklift Repair – c. 1985, Welding Shop – c. 1985, Pipe Storage – c. 1985, Mill Run Canopy – 1986, Bakery Bulkhouse – 1992

These six additional structures do not meet the 50-year threshold and do not bear any characteristics that would warrant their listing on the CRHR. These structures do not exhibit exceptional architectural merit, any intimate association with a major historical event or pattern, or any association with a historical person. They are also unlikely to yield information that is important to history or prehistory.

### **Archaeological Setting**

A records search for the proposed project was conducted by Dudek at the Northwest Information Center on October 15, 2014. Based on a review of the records, no archaeological resources have been previously recorded within the project site. The nearest previously recorded site is located approximately 0.5 mile from the site. Two previous cultural resources technical surveys have directly included the project site (see Appendix G). Dudek conducted an archaeological survey of the project site in May 2014. The Dudek archaeologist did not identify any archaeological sites or features within the project site.

A letter was sent to the NAHC on October 8, 2014, requesting a records search for identified Native American cultural resources in the project vicinity. A response was received on October 24, 2014, stating that “A record search of the sacred land file has failed to indicate the presence of Native American cultural resources in the immediate project area” (see Appendix G).

A review of the California State Lands Commission Shipwreck Database indicates that there is no record of marine archaeological resources in the vicinity in the project site (CSLC 2014).

### 3.4.3 Thresholds of Significance

The following criteria, included in Appendix G of the CEQA Guidelines (14 CCR 15000 et seq.), will be used to determine the significance of potential cultural resources impacts. Impacts to cultural resources would be significant if the proposed project would:

- A) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5;
- B) Cause a substantial adverse change in the significance of an archaeological resource pursuant to 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.

### 3.4.4 Impact Discussion

*A) Would the project cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?*

#### VMT and Orcem Project Analysis

A “substantial adverse change” is defined in the CEQA Guidelines 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.” Further, that the “significance of an historical resource is materially impaired when a project “demolishes or materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance and that justify its inclusion in, or eligibility for inclusion in the California Register of Historical Resources;” or “demolishes or materially alters in an adverse manner those physical characteristics that account for its inclusion in a local register of historical resources...” or demolishes or materially alters in an adverse manner those physical characteristics of a historical resource that convey its historical significance and that justify its eligibility for inclusion in the California Register of Historical Resources as determined by a lead agency for purposes of CEQA.”

The proposed project involves demolition of existing buildings as well as an extensive amount of new construction and site work (grading, new asphalt or concrete driveways, new site features) that could impact the historical significance of buildings on the site. The Orcem project component would require demolition of the following buildings: grain silos and elevator, flour mill, old bulkhouse, new bulkhouse, welding shop, pipe storage, and forklift repair. The VMT project component would require demolition of the warehouse, bakery bulkhouse, and dock. The

administrative building and garage would remain in their current location and would be reused by VMT for administrative and office uses. The manager's house, manager's garage, and barn would not be impacted by the project.

As described in existing conditions, the flour mill, grain silos, administrative building, garage, manager's house, barn, and dock are all contributing buildings to a potential Sperry Flour Mill Historic District. The remaining structures on the site were either not built during the period of significance and are therefore not contributing structures to the cultural and/or historic importance of the Sperry Mill, or do not meet the 50-year threshold for listing on the CRHR.

Although the administrative building and garage would not be demolished as a result of the proposed project, construction activities could cause both direct and indirect impacts to the administrative building and garage, which are contributors to a potential Sperry Flour Mill Historic District. The manager's house and barn are also contributing historic resources to a potential Sperry Flour Mill Historic District. However, they are located far enough away, about 185 feet, from construction activities that the potential for direct or indirect impacts is limited and would not rise to the level of a significant adverse impact. Such activities could include the operation of heavy machinery and drilling equipment, staging, storage of materials and dump trucks directly passing by the contributing resources. Construction activities could damage these historic architectural resources through destabilization, or physical contact. Also, depending on the nature and type of demolition and new construction on the project site, vibration-related impacts could have an effect on these historic resources. Trucks hauling materials associated with demolition and new construction to and from the project site could also potentially impact these resources. The proposed project would therefore result in a **significant impact** due to the potential for damage to the administrative building and garage during construction (**Impact 3.4-1**).

As described above, the proposed project would result in demolition of the flour mill, grain silos, and dock, which are all important components of the original Sperry Mill. Once demolished, the buildings would no longer retain historic integrity and would no longer be contributors to a potential historic district. The proposed demolition of the flour mill, grain silos, and dock, and extensive new construction and site work (grading, new asphalt or concrete driveways, new landscaping) would have a significant adverse effect on the integrity of a potential Sperry Flour Mill Historic District. The flour mill and grain silos are the most important structures that define a potential historic district and convey the historic significance of a potential historic district that justifies its eligibility for inclusion in the CRHR. Combined with the loss of the dock, the proposed project would result in the loss of such a potential historic district's integrity. As mentioned previously, integrity is defined as the authenticity of a historical resource's physical identity as evidenced by the survival of characteristics or historic fabric that existed during the resource's period of significance. Integrity is evaluated with regard to the retention of location, design, setting, materials, workmanship, feeling, and association, as discussed in detail below.



*Location.* In this case the flour mill and grain silos represent the most important physical characteristics that justify a potential historic district’s eligibility for inclusion in the CRHR. Although relatively more minor, the dock is also one of the potential historic district’s physical characteristics. These physical characteristics will be gone once the structures are demolished.

*Design.* With demolition of the three contributing resources and the construction of the proposed project, the design aspects of the potential historic district—its most important structures, the spatial relationships between all the contributing resources, and the layout and relationship of other existing, but not necessarily historic features—will be lost.

*Setting.* As a result of the demolition of two of the key contributing resources to a potential Sperry Flour Mill Historic District and one other lesser resource, the result will be the loss of the physical environment which will no longer reflect the basic physical conditions under which the property was first developed and the functions the Sperry Flour Mill was intended to serve.

*Materials.* With demolition of the three contributing resources, the physical elements that comprise a potential historic district and justify its eligibility for inclusion in the CRHR will be lost.

*Workmanship.* Workmanship is generally not used as a measure of integrity when looking at areas, sites, and districts. It is not evaluated here as the potential historic district does not present physical evidence of a craft, artisan’s labor or skill, or innovative period techniques. Although workmanship can take into account vernacular methods of construction, the structures contributing to the significance of a potential historic district do not provide evidence of innovative technological practices or aesthetic principles.

*Feeling.* With demolition of two of the key contributing resources to a potential Sperry Flour Mill Historic District and one other lesser resource, the physical features that convey the character of the potential historic district will be lost.

*Association.* With demolition of two of the most important contributing resources to a potential historic district and one other lesser resource, the direct link to the Sperry Flour Mill will be severed, and the place will not be sufficiently intact to convey that relationship.

The administrative building and the garage would be retained and rehabilitated. Therefore, they would contribute to retaining the integrity of a potential historic district. However, they are relatively less important in defining the significance of a potential historic district than the flour mill and grain silos, and their retention would not be sufficient for a potential historic district to maintain its integrity.

Implementation of the proposed project would result in a **significant impact** on historic architectural resources due to the loss of integrity of a potential Sperry Flour Mill Historic District associated with demolition of the flour mill, grain silos, and dock (**Impact 3.4-2**).

### **Off-Site Improvements**

The proposed project includes two off-site improvements that would take place at the City of Vallejo Municipal Marina located approximately 2 miles north of the project site: public access improvements and removal of existing deteriorated docks. These improvements do not involve alteration of any historic resources, and no historic resources would be affected by the improvements. Therefore, **no impact** would occur as a result of the off-site improvements.

*B) Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?*

### **VMT and Orcem Project Analysis**

As described in existing conditions, no archaeological resources have been previously recorded within the project site. Further, based on inspection of subsurface exposures, the topography, and highly developed nature of the planned area of direct impact, there appears to be little potential for the unanticipated discovery of archaeological resources during project implementation. Nevertheless, there is potential for the inadvertent discovery of unknown archaeological resources during ground-disturbing activities associated with project construction, which could lead to an impact to archaeological resources. Therefore, impacts would be **potentially significant (Impact 3.4-3)**.

### **Off-Site Improvements**

The proposed project includes two off-site improvements that would take place at the City of Vallejo Municipal Marina located approximately 2 miles north of the project site: public access improvements and removal of existing deteriorated docks. The public access improvements would involve installation of a new self-propelled personal watercraft launch ramp just north of the access ramp to K Dock at the south end of the marina. The proposed launch would consist of a pre-cast articulated concrete mat, approximately 10 feet wide by 60 feet long over a geotextile fabric. Installation of the launch ramp would occur within the existing Municipal Marina, which has been disturbed by dredging and development. The project would also involve the removal of existing deteriorated dock improvements within the water area at the north end of the marina. Approximately 80 14-inch-diameter creosote timber piles and deteriorated dock facilities would be removed from this portion of the marina. A review of the California State Lands Commission Shipwreck Database indicates that there is no record of marine archaeological resources in the vicinity in the Marina (CSLC 2014). Although there is little potential for unanticipated discovery

of marine archaeological resources as a result of the off-site improvements, in the event an unanticipated discovery is made during implementation of the off-site improvements, impacts would be **potentially significant (Impact 3.4-4)**.

*C) Would the project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?*

### **VMT and Orcem Project Analysis**

As described in Section 3.5, Geology and Soils, and shown in Figure 3.5-1, the area of the site to be developed is underlain by a mantle of artificial fills approximately 3 feet to 19 feet thick (increasing in thickness towards the San Francisco Bay). In the areas of the site to be developed, the existing fills are underlain by bay mud deposits. Based on the historical disturbances to the project site, the geologically young and unconsolidated nature of the affected sediments, the potential for significant paleontological resources to be present on the site is very low. However, construction of the retaining walls on the northeastern border of the site and excavations for structures that must be founded on bedrock could result in incidental disturbance to older, native sedimentary rock that shallowly underlies the hillside to the west, and that deeply underlies the proposed project's development footprint. Due to the age and sedimentary marine origin of the bedrock underlying the site, it could contain fossils, but they would be more likely to consist of abundant marine invertebrates (e.g., foraminifera) than unique or significant vertebrate fossils.

Although the paleontological potential of rocks and sediment within the project's disturbance footprint is very low, the potential remains for deep excavations to uncover potentially significant fossils within the bedrock underlying the site. For this reason, impacts would be **potentially significant (Impact 3.4-5)**.

### **Off-Site Improvements**

The proposed project includes two off-site improvements that would take place at the City of Vallejo Municipal Marina located approximately 2 miles north of the project site: public access improvements and removal of existing deteriorated docks, as described previously. The areas to be disturbed by the off-site improvements are underlain by bay mud deposits. Based on the historical disturbances to the Marina, the geologically young and unconsolidated nature of the affected sediments, the potential for significant paleontological resources to be present on the site is very low. Therefore, impacts would be **less than significant**.



***D) Would the project disturb any human remains, including those interred outside of formal cemeteries?***

**VMT and Orcem Project Analysis**

There is no evidence of human remains on the project site, and the potential for the inadvertent discovery of human remains on the project site is very low because there is no evidence of any historical camps or human settlement on the site. Additionally, existing regulations through California Health and Safety Code Section 7050.5 state that if human remains are discovered during project construction, no further disturbance shall occur until the County Coroner has made the necessary findings as to origin. Further, pursuant to California Public Resources Code Section 5097.98(b), remains shall be left in place and free from disturbance until a final decision as to the treatment and disposition has been made. If the County Coroner determines the remains are Native American, the NAHC shall be contacted within a reasonable time. Subsequently, the NAHC shall identify the Most Likely Descendant. The Most Likely Descendant shall then make recommendations and engage in consultations concerning the treatment of the remains as provided in California Public Resources Code Section 5097.98. Although the potential for human remains on the project site is very low, in the event that human remains are found on the site during project construction, impacts would be **potentially significant (Impact 3.4-6)**.

**Off-Site Improvements**

The proposed project includes two off-site improvements that would take place at the City of Vallejo Municipal Marina located approximately 2 miles north of the project site: Public access improvements and removal of existing deteriorated docks. There is no evidence of human remains within the areas to be disturbed by the off-site improvements, and the potential for the inadvertent discovery of human remains is very low because there is no evidence of any historical camps or human settlement in this area. Additionally, existing regulations through California Health and Safety Code Section 7050.5 state that if human remains are discovered during project construction, no further disturbance shall occur until the County Coroner has made the necessary findings as to origin. Further, pursuant to California Public Resources Code Section 5097.98(b), remains shall be left in place and free from disturbance until a final decision as to the treatment and disposition has been made. If the County Coroner determines the remains are Native American, the NAHC shall be contacted within a reasonable time. Subsequently, the NAHC shall identify the Most Likely Descendant. The Most Likely Descendant shall then make recommendations and engage in consultations concerning the treatment of the remains as provided in California Public Resources Code Section 5097.98. Although the potential for human remains within the off-site improvement areas is very low, in the event that human remains are found during construction of the off-site improvements, impacts would be **potentially significant (Impact 3.4-7)**.

### 3.4.5 Mitigation Measures

**Mitigation for Impact 3.4-1:** The proposed project would result in a significant impact to historic architectural resources due to the potential for damage to the administrative building and garage during construction.

**MM-3.4-1a** A historic preservation plan shall be prepared and implemented to aid in preserving those historic resources proposed to be retained within the original Sperry Mill site. These include the administrative building, garage, manager's house, and the barn, all of which shall be protected from direct or indirect impacts during construction activities (i.e., due to damage from operation of construction equipment, staging, material storage, and vibrations).

If deemed necessary upon further condition assessment of the buildings, the plan shall include the preliminary stabilization, prior to construction, of deteriorated or damaged materials or systems that may be hazardous.

At a minimum, the plan shall include:

- A requirement for the placement of perimeter fencing and/or signs around the historical resources to identify them as sensitive resources to be avoided;
- Guidelines for operation of construction equipment adjacent to historical resources;
- Guidelines for storage of construction materials away from the resources;
- Requirements for monitoring and documenting compliance with the plan; and
- Education/training of construction workers about the significance of the historical resources around which they would be working. The training program shall be prepared by a historical architect and approved by Planning Division staff.

The plan shall be prepared by a qualified architectural historian or historical architect who meets the Secretary of Interior's Professional Qualification Standards (36 CFR, Part 61). The plan shall be reviewed and approved by Planning Division staff. The project sponsor shall ensure that the contractor follows these plans. The protection plan, specifications, monitoring schedule, and other supporting documents shall be incorporated into the building permit application plan sets.

**MM-3.4-1b** Prior to construction, a historical architect and a structural engineer shall undertake an existing condition study of the administrative building and garage.

The purpose of the study would be to establish the baseline condition of the structures prior to construction. The documentation shall take the form of written descriptions and visual illustrations, including those physical characteristics of the resource that convey its historical significance and that justify its inclusion on, or eligibility for inclusion on, the California Register of Historical Resources. The documentation shall be reviewed and approved by Planning Division staff.

The historical architect shall make periodic site visits to monitor the condition of the resource, including monitoring of any instruments such as crack gauges. The historical architect shall consult with the structural engineer to ensure that character-defining features are protected, especially if any problems with character-defining features of the historic resource are discovered. If in the opinion of the monitoring team, substantial adverse impacts to the historic resource related to construction activities are found during construction, the monitoring team shall so inform the project sponsor or designated representative responsible for construction activities. The project sponsor shall adhere to the monitoring team's recommendations for corrective measures, including halting construction in situations where construction activities would imminently endanger the historic resource. The monitoring team shall prepare site visit reports and submit them for review and approval by Planning Division staff.

**MM-3.4-1c** Upon completion of construction activities at the proposed project site, the qualified architectural historian or historical architect shall document (e.g., with photographs and other appropriate means) the level of success in meeting the Secretary of the Interior's Standards for the Treatment of Historic Properties and in preserving the character-defining features of the identified historic resources. The documentation shall be submitted to Planning Division staff for review and approval.

The project sponsor shall ensure that repairs occur in the event of damage to the historic resources during construction. Repair work shall comply with the Secretary of the Interior's Standards for the Treatment of Historic Properties and shall restore the character-defining features in a manner that does not affect the eligibility of the historic property for the California Register of Historical Resources. All repairs shall be reviewed by Planning Division staff in consultation with the architectural historian or historical architect.

**Mitigation for Impact 3.4-2:** Implementation of the proposed project would result in a significant impact on historic architectural resources due to the loss of integrity of a potential Sperry Flour Mill Historic District associated with demolition of the flour mill, grain silos, and dock.



**MM-3.4-2a** Prior to the issuance of demolition or site permits, the project sponsor shall undertake Historic American Building Survey (HABS) documentation of the subject property, structures, objects, materials, and site features. The documentation shall be undertaken by a qualified professional who meets the standards for history, architectural history, or historic architecture (as appropriate), as set forth by the Secretary of the Interior's Professional Qualification Standards (36 CFR, Part 61). The documentation shall consist of the following:

#### **Measured Drawings**

The project sponsor shall engage the services of an architectural historian to conduct research to find plans and drawings of the structures on the project site that comprise the historic resources, most importantly those of the flour mill and grain silos. If plans are found and can be made available for reproduction, they shall be reproduced on archival materials, either archival bond paper or mylar.

If suitable plans are not available, an architectural historian or historical architect shall prepare sketch plans for the flour mill building. One sketch plan shall be made of the ground floor (including the warehouse). Another plan shall be made of one floor of the tower portion of the flour mill. In addition, sketch floor plans shall be made of the administrative building and garage.

An architectural historian or historical architect shall prepare a site plan, including the manager's house and grounds. Site plans prepared by the project sponsor can be used as a base.

#### **Photography**

Large format negatives shall be required. Photography shall be undertaken by a qualified professional with demonstrated experience in Historic American Buildings Survey photography and shall follow the HABS/HAER/HALS Photography Guidelines (National Park Service, Heritage Documentation Programs, 2011). Digital prints shall be acceptable.

Photography shall include context photographs, site features, and all structures on the project site that comprise the historic resources. The photographer shall consult with the architectural historian engaged in the measured drawings and historical report about the type and number of views required for the documentation of the potential historic district.

### Historical Report

An architectural historian shall prepare a written Narrative Report based on HABS Guidelines for Preparing Written Historical and Descriptive Data. Carey and Company's previous report (2008) and the revised evaluation for this historic resources evaluation can be used in the preparation of the Narrative Report. The architectural historian shall make an effort to locate and conduct an oral history interview with Floyd Miller, who provided assistance with the 2008 report.

All documentation shall be submitted for review and approval by Planning Division staff prior to the issuance of final building occupancy permits. The final documentation shall be disseminated to the John F. Kennedy Library, Northwest Information Center, Sonoma State University (California Historical Resource Information System), and Vallejo Naval and Historical Museum.

- MM-3.4-2b** The project sponsor shall install permanent interpretive exhibits at the Vallejo Naval and Historical Museum that provide information to visitors and occupants regarding the history of the Sperry Flour Mill. The interpretive exhibit shall utilize images, narrative history, drawings, or other archival resources. The interpretive exhibits may be in the form of, but are not necessarily limited to plaques or markers, interpretive display panels. The interpretive exhibits shall be installed at a pedestrian friendly location, and be of adequate size to attract the interested public. The project sponsor's consultant shall submit conceptual and final designs to Planning Division staff for review and approval. Mitigation for Impact 3.4-3: Construction and excavations for structures on the site could result in incidental disturbance to native sedimentary rock and, although low, potential remains for deep excavations to uncover significant fossils, which would result in a significant impact.

**Mitigation for Impacts 3.4-3 and 3.4-4:** There is potential for the inadvertent discovery of unknown archaeological resources during ground-disturbing activities associated with project construction and the off-site improvements, which could lead to a significant impact to archaeological resources.

- MM-3.4-3** In the event that archaeological resources (sites, features, or artifacts) are exposed during construction activities for the proposed project or the off-site improvements, all construction work occurring within 100 feet of the find shall immediately stop until a qualified archaeologist, meeting the Secretary of the Interior's Professional Qualification Standards, can be retained to evaluate the significance of the find and determine whether additional study is warranted. Depending on the significance of the find under the California Environmental Quality Act (CEQA) (14 CCR

15064.5(f); California Public Resources Code, Section 21082), the archaeologist may record the find and allow work to continue. If the discovery proves significant under CEQA, additional work such as preparation of an archaeological treatment plan, testing, or data recovery may be warranted.

**Mitigation for Impact 3.4-5:** Although the paleontological potential of rocks and sediment within the project's disturbance footprint is very low, the potential remains for deep excavations to uncover potentially significant fossils within the bedrock underlying the site.

**MM-3.4-4** If potential fossils are discovered by construction crews, all earthwork or other types of ground disturbance within 50 feet of the find shall stop immediately until a qualified professional paleontologist can assess the nature and importance of the find. Based on the scientific value or uniqueness of the find, the paleontologist may record the find and allow work to continue, or recommend salvage and recovery of the fossil. If treatment and salvage is required, recommendations shall be consistent with Society of Vertebrate Paleontology 1995 guidelines and currently accepted scientific practice, and shall be subject to review and approval by the City. Work in the affected area may resume once the fossil has been assessed and/or salvaged and the City, in consultation with the professional paleontologist, has provided written approval to resume work.

**Mitigation for Impacts 3.4-6 and 3.4-7:** Although the potential for human remains on the project site and within the off-site improvement areas is very low, in the event that human remains are found during project construction or implementation of the off-site improvements, impacts would be potentially significant.

**MM-3.4-5** In accordance with Section 7050.5 of the California Health and Safety Code, if human remains are encountered by project personnel, the County Coroner shall be notified within 24 hours of the discovery. No further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains shall occur until the County Coroner has determined, within 2 working days of notification of the discovery, the appropriate treatment and disposition of the human remains. If the County Coroner determines that the remains are, or are believed to be, Native American, he or she shall notify the Native American Heritage Commission (NAHC) in Sacramento within 48 hours. In accordance with California Public Resources Code Section 5097.98, the NAHC must immediately notify those persons it believes to be the most likely descendent (MLD) of the deceased Native American. The MLD shall complete their inspection within 48 hours of being granted access to the site. The designated Native American representative shall then determine, in consultation with the property owner, disposition for the human remains.



### 3.4.6 Level of Significance After Mitigation

**Impact 3.4-1:** Implementation of mitigation measures MM-3.4-1a: Historic Preservation Plan and Protective Measures; MM-3.4-1b: Historic Resource Baseline Condition Study; and MM-3.4-1c: Compliance with the Secretary of the Interior’s Standards for the Treatment of Historic Properties and Preserve the Character-Defining Features of Historic Resources would reduce Impact 3.4-1 to a **less-than-significant** level.

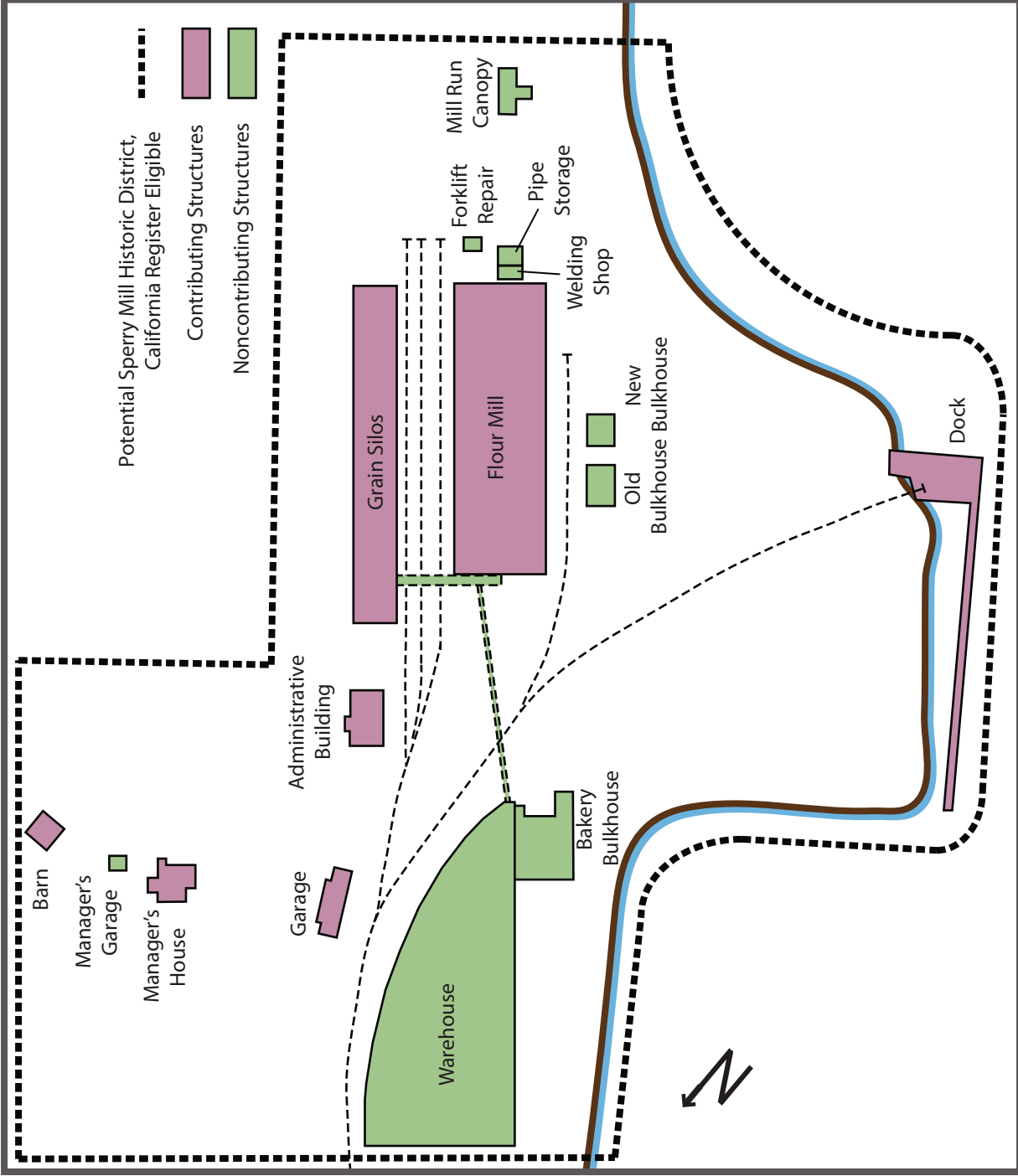
**Impact 3.4-2:** Implementation of MM-3.4-2a: Historic American Buildings Survey Documentation and MM-3.4-2b: Permanent Interpretive Exhibits would reduce Impact 3.4-2, but not to a **less-than-significant** level. Thus, the impacts would remain **significant and unavoidable**.

**Impacts 3.4-3 and 3.4-4:** Implementation of MM-3.4-3 would reduce Impacts 3.4-3 and 3.4-4 to **less-than-significant** levels.

**Impact 3.4-5:** Implementation of MM-3.4-4 would reduce Impact 3.4-5 to a **less-than-significant** level.

**Impacts 3.4-6 and 3.4-7:** Implementation of MM-3.4-5 would reduce Impacts 3.4-6 and 3.4-7 to **less-than-significant** levels.

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SOURCE: Carey & Co Inc. Architecture

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**FIGURE 3.4-1  
Historical Resources Survey Map**

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