



CITY OF
HAYWARD
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DATE: September 17, 2009
TO: Planning Commission
FROM: Erik J. Pearson, AICP, Senior Planner
SUBJECT: Update on the Mt. Eden Annexation Phase II Study and Related Technical Reports

RECOMMENDATION

That the Planning Commission reads and comments on this report and the related plans, and studies.

SUMMARY

The purpose of this work session is to provide the Commission with an update of the Mt. Eden Annexation Phase II Study and to comment on the draft Initial Study/Mitigated Negative Declaration (IS/MND), the draft Fiscal Impact Analysis (FIA), and the plans for the utility and street improvements for the two unincorporated islands (see Attachment A). Staff forwarded to the Planning Commission a copy of the Draft IS/MND and the Draft FIA prepared for the Mt. Eden Annexation Phase II project on August 26, 2009. Copies have also been forwarded to the City Council, the Alameda County Local Agency Formation Commission (LAFCo), Alameda County Community Development Agency, and the Alameda County Redevelopment Agency.

The Mt. Eden Annexation Phase II involves a reorganization that consists of annexation of the last two unincorporated groups of parcels (islands) and withdrawal of those islands from the Alameda County Library, and Fire Districts. The IS/MND concludes that no significant unavoidable impacts would result from the proposed annexation, associated infrastructure improvements and anticipated potential development, which cannot be mitigated to a less than significant level. The Fiscal Impact Analysis concludes that, over a 20-year timeframe, the annexation will be a cumulative net fiscal annual deficit to the City's General Fund of approximately \$1.5 million.

The draft IS/MND has been prepared in accordance with the California Environmental Quality Act (CEQA) Guidelines and analyzes the potential environmental impacts associated with the project. In general, potential environmental impacts are much less than was the case for Phase I. This is due to the much smaller development potential. The topic areas considered in the draft IS/MND include the following: aesthetics, air quality, biological resources, cultural resources, geology and soils, hazards, hydrology, noise, population and housing, transportation and circulation and public services. For the environmental impacts that have the potential to be significant, mitigation

measures have been proposed which will reduce any potential impacts to a less than significant level.

BACKGROUND

In the summer of 2003, the City initiated the Mt. Eden Annexation Phase I Study to determine the desirability and feasibility of annexing five unincorporated lands in the Mt. Eden area into the City of Hayward. Due to concerns raised by area residents early in the process, the Mohr-Depot Island and the West-Mohr Island, which are the two islands included in the second phase annexation, were not included in Phase I. That study included various focused analyses and community meetings held in the Mt. Eden area, as well as a walking tour of the neighborhood. The annexation was pursued for the following reasons:

- State law encourages the logical formation and determination of local agency boundaries;
- the Hayward General Plan encourages annexation of such islands; and
- there were property owners who expressed an interest in having their properties annexed into the City of Hayward, and developed.

Mt. Eden Phase I reorganization was approved by LAFCo on March 5, 2007 and included the annexation of three westerly and northerly islands (Attachment B). The reorganization included withdrawal of the three islands from the Alameda County Library and Fire Districts. The properties were left in the County's Redevelopment Project area in order to use tax increment revenue funds generated by future development to finance infrastructure upgrades. A program level Environmental Impact Report (EIR) and a Fiscal Impact Analysis were prepared.

Dutra Enterprises, a private development company and the largest single property owner in the Saklan Road Island, agreed to provide financing for improvements. This includes the installation of water and sewer mains, storm drainage facilities, and street improvements for Phase I and a portion of the Phase II annexation improvements. A benefit district was formed in January of 2007 for the Phase I residential properties, providing a mechanism for future developers to pay their fair share of the costs for installation of public sewer, and water facilities. The *Mt. Eden Redevelopment Sub-Area Annexation and Public Improvements Agreement* and the *Reimbursement Agreement* between the City and Dutra Enterprises contain the terms and conditions for reimbursing Dutra Enterprises. Reimbursement will be facilitated by the benefit district and tax increment revenue funds generated by future development.

DISCUSSION AND STAFF ANALYSIS

Project Area –

The project area is located in the westerly portion of Hayward's Sphere of Influence, south of West Street and north of Depot Road, generally along Mohr Drive. The proposal involves annexing the two remaining unincorporated "islands" in the Mt. Eden area that are completely surrounded by the City of Hayward. Attachment A depicts the location of the project site in context of the City of Hayward and Attachment B shows the location of the two Phase II islands, as well as the previously annexed three Phase I islands.

The project area is approximately 61 acres, including 5.68 acres of road right-of-way, and contains 69 parcels located in two islands – the Mohr-Depot Island and the West-Mohr Island. The area is primarily developed with single-family residential parcels, all but four of which are developed. The area also includes the northern portion of the Chabot Community College property, the Hermann-Mohr Estate parcel located at the corner of Mohr Drive and Depot Road; which is being used as a drug and alcohol recovery center operated by Horizon Services, and the Mohr-Fry Estate parcel located along Hesperian Boulevard. Fire protection services are provided by the City of Hayward via a contract with Alameda County, and police services are provided primarily by the Alameda County Sheriff's Department.

While a limited number of properties are served by the City of Hayward public sewer system, most properties are served by on-site private septic systems. Until recently, a water system previously owned and operated by the Mohrland Mutual Water Association served most of the project area. On July 1, 2009, per an agreement between the Association and the City executed in July 2007, the City assumed ownership of and began operating the water system. Streets in the proposed annexation area do not meet City standards and many areas lack curbs, gutters, and sidewalks.

General Plan & Zoning –

No changes to existing Hayward General Plan land use designations are anticipated as part of this project. The parcels in the project area were pre-zoned by the City in 1990 as part of the Mt. Eden Neighborhood Plan. There are two zoning changes proposed. The property identified as LM (Light Manufacturing) on Figure 7 of the Draft Initial Study would be changed to LI, (Light Industrial), to coincide with the zoning designation within the Zoning Ordinance. The Zoning Ordinance does not have a LM zoning designation. Also, the portion of the Chabot College property that falls within the project area would be changed from RS (Single-Family Residential) to PF (Public Facilities). Most public schools in Hayward are currently zoned RS and staff intends to eventually have them changed to PF.

Development Potential –

Based on the proposed pre-zoning designations, there would be a potential for 54 new housing units in the study area. This would increase the number of homes from 71 to 125, resulting in a population increase from 219 to approximately 385 persons.

Staff received a request from the owners of the two properties in the southwest corner of the Mohr-Depot Island to have the pre-zoning changed to a commercial designation to allow the future development of a neighborhood-serving commercial center. The properties located at 2627 and 2661 Depot Road, each approximately one acre in size, are both currently developed with single-family homes and many accessory buildings. The parcels are currently zoned Agriculture by the County and, as mentioned above, the Neighborhood Plan recommended pre-zoning designations of RS and LM. The owners of both properties indicated that they would eventually combine their properties with the three parcels to the west to create an approximately six-acre parcel at the corner of Industrial Boulevard and Depot Road for a future commercial development. Staff requested a preliminary site plan so that the commercial use of the property could be analyzed in the environmental Initial Study and Fiscal Impact Analysis; however, one was not provided. After

several discussions with the property owners and their representatives during 2008, staff concluded that the annexation should proceed with the pre-zoning designations of RS and LI for the two Depot Road properties. The single-family home on the LI parcel would become legal non-conforming, however the parcel may serve as a buffer between the residential uses to the east and heavier industrial uses to the west. Staff would be supportive of a future commercial designation at this site, associated with a proposed high quality commercial development.

Summary of Environmental Impacts and Mitigation Measures –

As required by the California Environmental Quality Act (CEQA), an IS/MND has been prepared to analyze the potential environmental impacts associated with the annexation and the related development potential. The MND states that there are no significant environmental impacts that cannot be mitigated to a level that is less than significant. Below is a summary of the potentially significant environmental impacts as identified in the draft IS/MND, dated August 2009. A more detailed account of the insignificant impacts can be found in the draft IS/MND.

Aesthetics – Although there are no direct significantly negative aesthetic impacts associated with the annexation and proposed improvements, there are mitigation measures that require an arborist report prior to street widening or commencement of private developments where protected trees may be affected. When protected trees are proposed to be removed, tree replacement plans that conform to the City's Tree Preservation Ordinance would be required.

Air Quality – Short term impacts to air quality are expected to be less than significant if, during construction, mitigation measures are met such as watering active construction areas twice daily and paving or treating unpaved access roads, parking, and staging areas. Mitigation measures also require streets to be swept daily, suspension of grading and trenching activities when winds exceed 25 miles per hour, and similar dust controlling measures.

The project is expected to result in the release of 863 metric tons of greenhouse gases (carbon dioxide equivalent) annually. This is 0.072 percent of the City's total annual emissions of 1,183,274 metric tons. Approximately 80 percent of the project's greenhouse gas emissions are expected to come from transportation-related sources. Mitigation measures for this impact consist of several of the actions identified in the City's recently adopted Climate Action Plan.

Biological Resources – There are areas within the project that are suitable nesting and foraging areas for many avian, including raptors and migratory birds. Therefore, for any ground disturbance occurring between March 1 and August 31 of each year, a qualified biologist shall conduct a focused survey for nesting and raptors and migratory birds 30 days prior to the ground disturbance and appropriate recommended measures shall be enforced.

Special-status bat species have been found in the project area. To protect the bats, prior to removal of any trees between March 1 and July 31, a qualified biologist shall conduct a survey prior to the removal of any trees and, if evidence of nesting is present, then a buffer zone may be established or construction may be delayed.

The proposed project is subject to the City's Tree Preservation Ordinance and would be required to comply with all tree removal, replacement, and protection requirements. Approximately 50 trees would have to be removed to accommodate the planned street improvements. The health, species, and value of the trees will be determined by a certified arborist. Staff will then attempt to find locations within the project area where replacement trees of equal value can be planted. Staff have been talking with property owners in the project area to find locations where trees may be planted on private properties. If there is not sufficient space to plant trees on private properties, then staff will consider creating bulb-outs and other opportunities for planting trees within the street right-of-ways.

Cultural Resources – Prior to approval of development within the project area, appropriate research (e.g. archaeological survey, paleontological survey, and/or architect inventory) would be conducted and recommendations implemented. In addition, prior to any proposed development activity within the project area that involves alteration or removal of a structure that is potentially eligible for designation as a state or local historic resource, a determination would be made as to the significance of the resource and the need for CEQA review.

Geology and Soils – As are the majority of Hayward's flatlands, the project area is within a State-defined seismic hazard liquefaction zone, where there is a potential for damage to structures during an earthquake. Mitigation measures to address potential impacts related to strong ground shaking and liquefaction require implementation of recommendations by California-registered geotechnical engineers, who would be required to conduct site-specific geotechnical investigations for individual development projects.

Hazardous Materials – As a result of past activities, some of the properties in the project area may contain contaminated soil or be located above contaminated groundwater plumes. Unless mitigated, construction of buildings as a result of the project may expose people in the area to soils and/or water-borne levels of contamination above acceptable regulatory levels resulting in adverse health effects. Mitigation measures call for pre-development submittal of Phase I Environmental Site Analysis reports to the City and, if warranted, Phase II reports. Compliance with recommendations in Phase II reports and any regulatory agency-approved hazardous materials work programs would be required.

Also, demolition of buildings and other facilities could release hazardous materials into the atmosphere, including asbestos-containing materials and lead-based paint, potentially resulting in health hazards to construction employees and local visitors, and residents. To mitigate such potential impacts, the IS/MND requires developers to contact appropriate regulatory agencies prior to demolition for site clearances and required permits and to comply with standards and demolition requirements of such agencies.

Hydrology, Drainage and Water Quality – The mitigation measures in the IS/MND require that for any development project that disturbs 10,000 square feet or more of land area, the following must be prepared: a drainage and hydrology study, a Stormwater Pollution Prevention Plan, and a erosion and sedimentation control plan. Construction methods shall comply with performance standards of Section C.3 of the National Pollutant Discharge Elimination System (NPDES) permit.

Noise – The IS/MND identifies potentially significant impacts related to noise for future residential development. Site-specific acoustical assessments would be required for future residential dwellings located within the project area. Mitigation measures would be required to be incorporated to comply with the City of Hayward noise standards. Noise generating construction activities would be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Saturday, and 10:00 a.m. to 6:00 p.m. on Sunday and holidays.

Parks – The IS/MND indicates the estimated increased population resulting from the project would generate the need for an additional 0.26 acres of local parkland in the area. Mitigation measures identified in the IS/MND would require developers of new residential units to pay park dedication in-lieu fees and/or dedicate/develop parkland.

School Facilities – The potential additional residential units that may be added to the area as a result of the annexation and related public infrastructure improvements are predicted to generate an estimated 22 elementary school students, 5 middle school students, and 12 high school students. Eden Gardens Elementary School, Ochoa Middle School and Mt. Eden High School serve the area. Eden Gardens and Ochoa are near or over capacity. The IS/MND calls for project developers to pay required school impact fees to offset impacts to schools generated by individual development projects, or provide other mitigation found acceptable by the Hayward Unified School District.

Summary of Engineering Issues –

Planned Improvements – Most streets do not meet City standards and lack curbs, gutters, and sidewalks. As part of the annexation process the street infrastructure would be upgraded to City Standards. The streets to receive improvements include Mohr Drive, Laguna Drive, Occidental Road, Monte Vista Drive, and Depot Road. In addition to street improvements and streetlights, the area would receive new sewer, and storm drain systems to better serve area residents. The barricade on Monte Vista Drive between Occidental Road and Laguna Drive would be removed. Construction of street and utility improvements is expected to begin in May 2010 and be completed by February 2011.

Right-of-Way Acquisition – Right-of-way would need to be acquired from the north side of Depot Road, and along portions of Mohr Drive, Monte Vista Drive, and Occidental Road in order to bring these streets to City standards. The Public Works Department expects to acquire all necessary right-of-way by March of 2010. Ramona Drive would be left as a private street to be maintained by the adjacent property owners. The right-of-way for Eden Avenue, south of Occidental Road, is currently not used as a street and would be abandoned, with such area reverting to adjacent property owners.

FISCAL AND ECONOMIC IMPACT

The Alameda County Redevelopment Agency will reimburse the City for costs associated with processing the Phase II reorganization (annexation) application up to \$179,000. Terms of the reimbursement are set forth in the *Mt. Eden Redevelopment Sub-Area Annexation and Public Improvements Agreement*, which was reached between the City of Hayward and Alameda County during the Phase I annexation. The Agreement also requires the City to “use diligent good faith

efforts to cause completion, within one (1) year after the approval and effectiveness of the Phase I Annexation, of all administrative and procedural requirements for annexation of the Phase II Annexation Area.”

At the time the agreement was signed, the estimated improvement cost was 5 million dollars. The City and County each agreed to contribute \$700,000, and Dutra Enterprises agreed to contribute \$3.6 million. A revised estimate for the cost of improvements calculated a cost of approximately \$7.4 million. In December of 2008, the agreement was amended to reflect the latest cost estimate and stipulated that the City of Hayward and Alameda County share equal responsibility in the additional expense (\$1.2 million each). The City’s recently adopted Capital Improvement Program includes \$7.4 in the Street System Improvement Fund specifically for this project. The amended agreement with the County also indicates December 31, 2009 as the anticipated completion date for the annexation.

The availability of the agreed-upon funding remains an issue that may affect both the timing of the improvements and the annexation itself. The additional \$1.2 million agreed to by the County is being provided by the County Public Works Agency primarily from gas tax revenue. The State has this past year threatened to take essentially all gas tax revenue from cities and counties. That take did not remain in the approved budget, although the present budget does include several months delay in the normal receipt of gas tax funds. If the State later this year reverts back to a proposal to take gas tax, then the County could not meet their commitment to fund this project. Staff is continuing to coordinate with the County on changes in the funding status while proceeding with the assumption that the funds will be provided. If the availability of gas tax revenue changes, the City would likely delay the annexation.

The draft Fiscal Impact Analysis estimates that, assuming it takes 20 years for the new residential units to be constructed, the annexation area will generate total revenue of \$3,065,273 million, and total cost of \$4,585,904 million, for a net fiscal impact (cost) to the City’s General Fund of \$1,520,631 (in nominal/current dollars). Details of a tax sharing agreement with the County have yet to be determined. A tax sharing agreement between the City and the County will be presented to the Council for approval along with the final IS/MND and final Fiscal Impact Analysis in the fall. The agreement between the City and the County executed for the Phase I annexation allows the County Redevelopment Agency to keep 100 percent of tax increment revenue to fund the County’s reimbursement payments to the City for Phase I improvements.

PUBLIC CONTACT

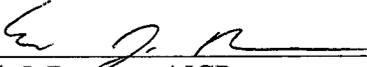
A neighborhood meeting was held in January 2008 where staff introduced the project and timeline. Questions raised at the meeting focused primarily on the costs associated with the annexation. Staff assured attendees that an assessment district would not be necessary for the annexation. The draft plans, studies, and the environmental document will be presented to the public at a second neighborhood meeting on September 23, 2009. Also, notification of the Planning Commission and City Council hearings, anticipated for October and November respectively, will be sent to all affected property owners.

SCHEDULE

The draft IS/MND, which is required to have a minimum 20-day public review period, was released for public comment on August 28, 2009. The public comment period will end on September 25, 2009.

A neighborhood meeting will be held at Ochoa Middle School on Wednesday, September 23, 2009 to inform the community of the planned improvements and to collect comments on the draft IS/MND. The final drafts of the IS/MND, FIA, and related documents will be presented to the Planning Commission October 15, 2009 and to the City Council on November 3, 2009. Staff anticipates submitting an application to LAFCo in November for a LAFCo hearing on January 14, 2010, assuming funding for the improvements is not an issue.

Prepared by:



Erik J. Pearson, AICP
Senior Planner

Recommended by:

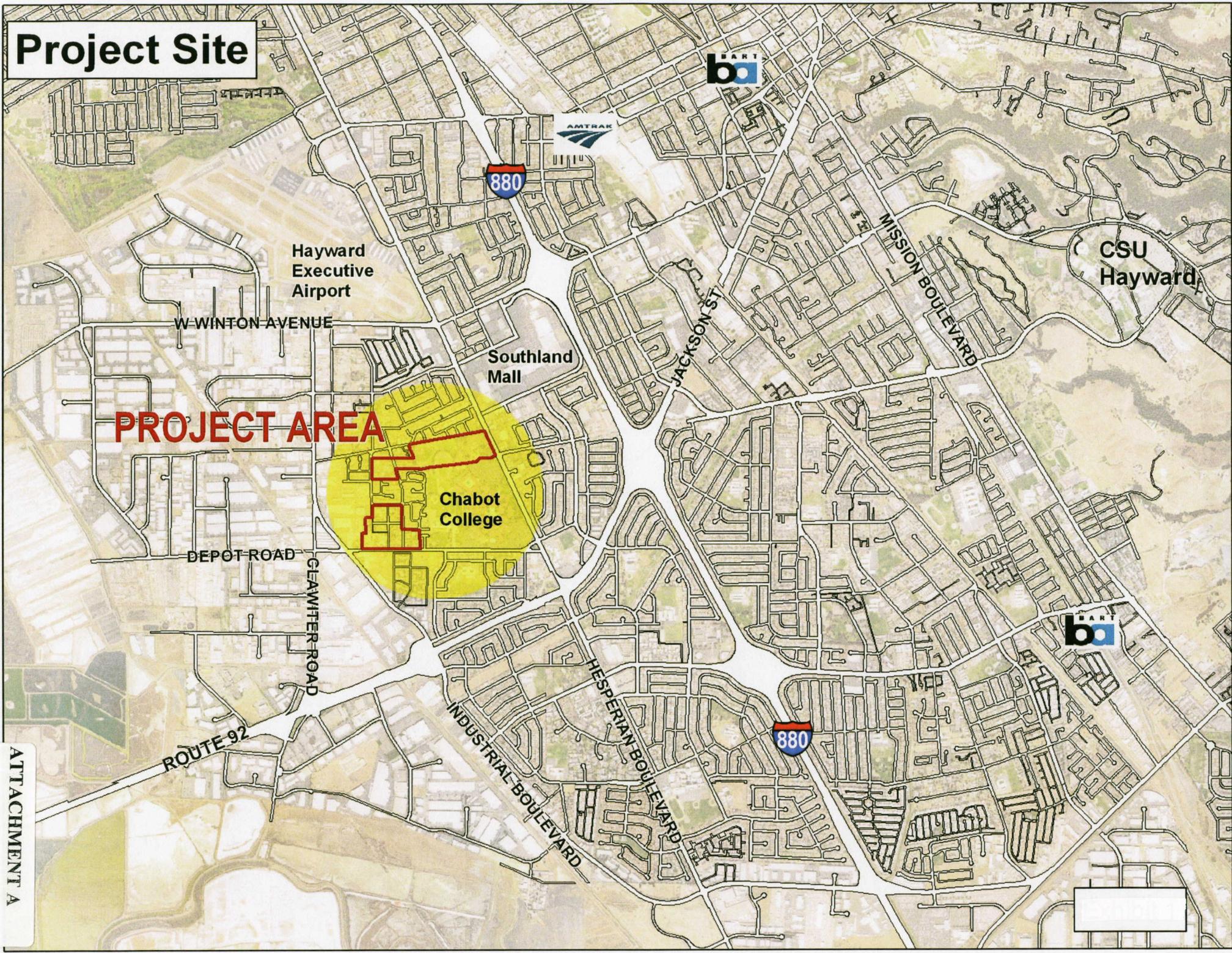


Richard Patenaude, AICP
Planning Manager

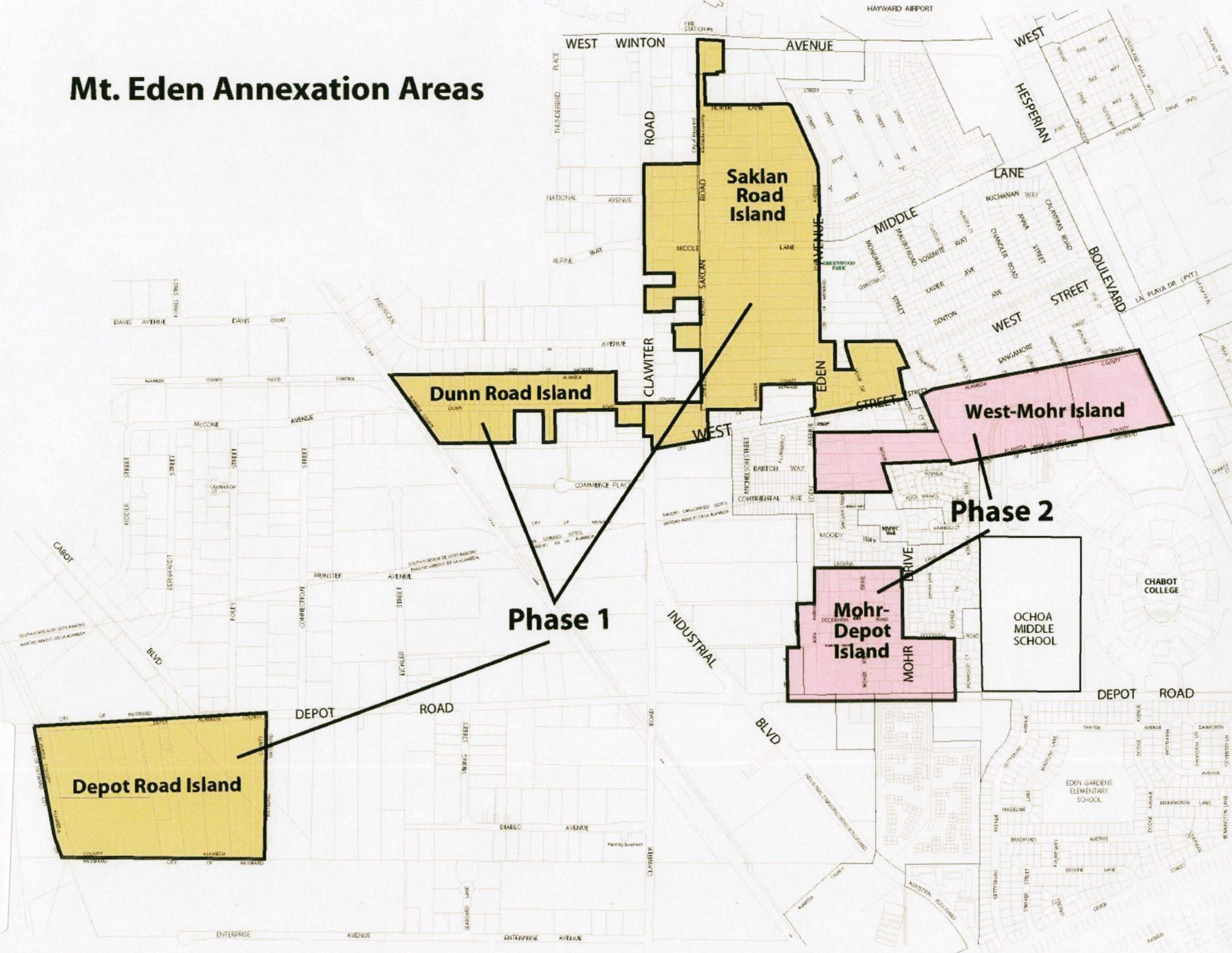
Attachment A:	Area Map
Attachment B:	Map Showing Five Islands
Attachment C:	Draft Initial Study/Mitigated Negative Declaration (distributed previously)
Attachment D:	Draft Fiscal Impact Analysis (distributed previously) Plans

9/10/2009

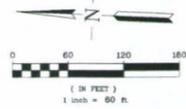
Project Site



Mt. Eden Annexation Areas

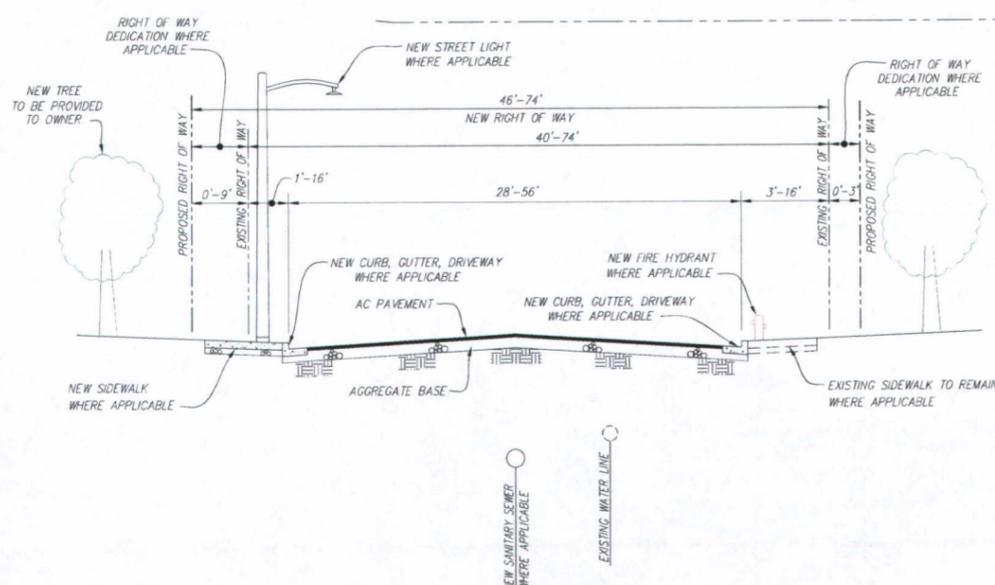
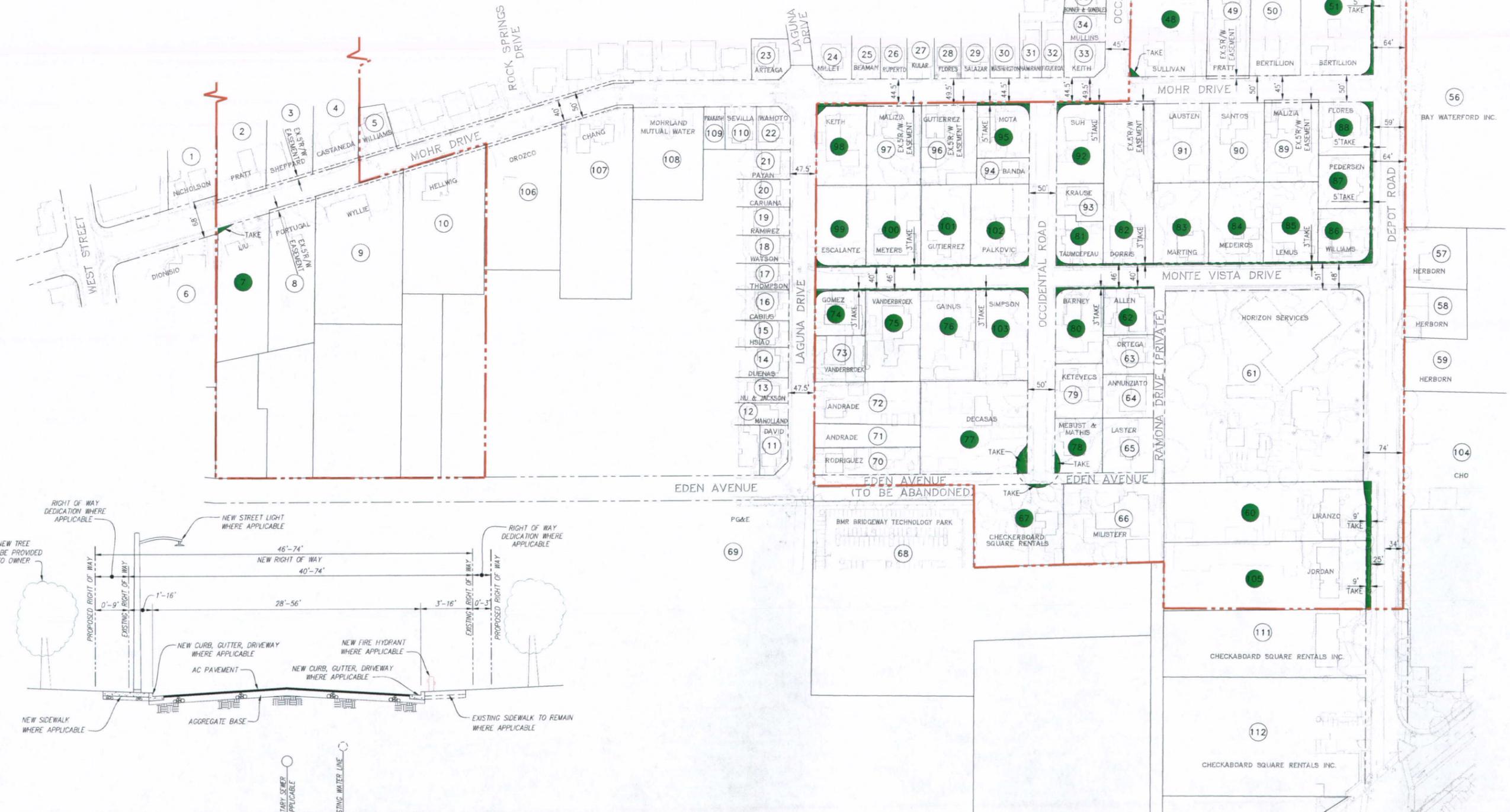


ATTACHMENT B



- LEGEND:**
- M.T. EDEN PHASE 2 ANNEXATION DISTRICT BOUNDARY
 - EXISTING RIGHT OF WAY
 - EXISTING RIGHT OF WAY EASEMENT
 - PROPOSED RIGHT OF WAY
 - PARCEL LINE
 - XX PARCEL REFERENCE NUMBER
 - PARCEL REFERENCE NUMBER (RIGHT OF WAY TAKE REQUIRED)

- ABBREVIATIONS:**
- EX. EXISTING
 - MAX. MAXIMUM
 - R/W. RIGHT OF WAY



RIGHT OF WAY EXHIBIT
MT. EDEN ANNEXATION AREA - PHASE 2
 CITY OF HAYWARD, ALAMEDA COUNTY, CALIFORNIA



TYPICAL STREET SECTION
 NOT TO SCALE