



**CITY OF HAYWARD
AGENDA REPORT**

AGENDA DATE 10/12/04

AGENDA ITEM 5

WORK SESSION ITEM _____

TO: Mayor and City Council

FROM: Director of Community and Economic Development

SUBJECT: Consideration of the Final Program Environmental Impact Report, Amendments to the Zoning Ordinance and Municipal Code, associated Negative Declarations and other actions associated with the Mt. Eden Annexation Study

RECOMMENDATION:

It is recommended that the City Council:

1. Adopt the attached resolutions: 1) certifying the Program Environmental Impact Report as being prepared in accordance with the California Environmental Quality Act and City implementing guidelines, adopting Findings of Fact for significant impacts, adopting the Statement of Overriding Considerations, and approving the Mitigation Monitoring and Reporting Program; 2) adopting the Negative Declaration associated with changes to the LM District provisions of the Zoning Ordinance; 3) adopting the Negative Declaration associated with changes to the sewer connection provisions of the Municipal Code; 4) approving application for the Mt. Eden Annexation (Phase 1); and 5) approving the Plan for Providing Municipal Services;
2. Introduce the attached ordinances: 1) rezoning properties that are proposed for annexation; 2) amending the Zoning Ordinance by making changes to the Light Manufacturing, Planning/Research and Development District (LM) provisions; 3) amending the Public Utilities Chapter of the Municipal Code by establishing an exception to the requirement to connect to the public sewer system for certain properties in the Mt. Eden Annexation Area.

DISCUSSION:

Background

The Mt. Eden unincorporated area includes five "islands" that are within the jurisdiction of Alameda County, which are completely surrounded by the City of Hayward, located generally west of Hesperian Boulevard between West Winton Avenue and State Highway 92 (see map, Exhibit A). To determine the desirability and feasibility of annexing unincorporated lands in the Mt. Eden area into Hayward, the City initiated the Mt. Eden Annexation Study in the summer of 2003. That study has included various focused analyses and entailed four community meetings held in the Mt. Eden area. The Study Area and proposed Annexation Area include three of five of the unincorporated islands: Saklan Road island, Dunn Road island and the Depot Road island.

The other two islands (West-Mohr and Mohr-Depot) were initially considered for inclusion in the study area. However, as summarized for the City Council during a November 2003 work session, those two islands were dropped from the study area, due mainly to opposition to annexation expressed by residents in those areas at the earlier community meetings. Recent discussions with Supervisor Gail Steele, County staff and some residents in those islands who have now indicated support for annexation have resulted in the County and City working together to pursue annexation of those islands in a subsequent phase within the next 12 months, after adequate study and analysis is completed (see map, Exhibit B).

All five islands are within Hayward's Sphere of Influence and Alameda County's Eden Area Redevelopment Project area. There are no plans to deannex the lands from the County Redevelopment Project Area, even if annexation of the land into the City is approved.

Staff's recommendations relate to zoning issues, utilities and the annexation application.

Zoning

Prezoning

No changes to the existing Hayward General Plan land use designations are proposed, with all recommended prezoning designations being consistent with those General Plan designations.

The Saklan Road island was prezoned by the City in 1990 as part of the Mt. Eden Neighborhood Plan. The Dunn Road and Depot Road islands were not part of the Mt. Eden Neighborhood Plan Area and were not prezoned at that time. The following prezoning actions are recommended (see map, Exhibit C):

- Prezone the Depot Road and Dunn Road islands to the Industrial (I) zoning district.
- Change the prezoning designation for parcels generally located west of Saklan Road, east of Clawiter Road and north of West Lane from Limited Industrial (LI) to the Light Manufacturing, Planning/Research and Development (LM) Zoning District. (Although an LI designation was recommended in 1990, the City did not and has not adopted such a zoning district.)

Remaining prezoning designations established as part of the Mt. Eden Neighborhood Plan are not recommended to change, which include Medium Density Residential (RM, with a minimum lot area of 2,500 square feet per dwelling unit) for properties located east of Saklan Road and Neighborhood Commercial (CN) for five parcels located between Clawiter Road and Saklan Road just north of West Street.

Proposed Text Amendment

The Light Manufacturing, Planning/Research and Development (LM) District was formed in 1998. To help with transitional impacts to certain business owners and operators as a result of annexation, staff is recommending amendments to the "LM" District provisions. The most substantial changes would allow certain uses as conditional uses in the "LM" District. Specifically, since most of parcels in the Saklan Road island that are proposed to be prezoned to "LM" contain storage-related facilities, staff is recommending that open storage, recreational vehicle storage facilities and public storage facilities be allowed as conditional uses in the "LM" district. Such uses are allowed as conditional uses in the Industrial District, which is the zoning

designation for properties in the City in the immediate area. The recommended amendments would also entail changes to the development standards, to be more reflective of the Mt. Eden area and the Industrial District, and creation of design and performance standards for areas outside the South of Route 92 Specific Plan area, which currently do not exist. Such standards utilize design and performance criteria found in the Industrial District.

Utilities

Several questions have been raised related to how the proposed annexation would impact those served by the Mohrland Mutual Water Association (MMWA), a private water company that serves approximately 100 properties in the Mt. Eden area, 25% being in the Phase I annexation area. MMWA is experiencing aging infrastructure, particularly related to an approximately 50-year old water main that runs along Mohr Drive, and has limited capital. Annexation itself would not require residents to discontinue service with MMWA. As has been previously stated to residents during community meetings, those that are served by the Mohrland Mutual Water Association or private wells can continue to be served by those entities, unless new development occurs. If new development occurs, properties would be required to connect to the City water system. Over time, the number of properties served by MMWA would diminish to the point that operation of the water company would no longer be financially feasible.

To further reduce financial impacts to owners in the Mt. Eden annexation area, staff is further recommending an amendment to the Municipal Code regarding sewer connections that would only become effective if annexation occurs. Currently, the Code requires connection to the public sewer system within 90 days if a property is located within 200 feet of such system. The proposed Code amendment would allow a property that is annexed in the Mt. Eden area and served by a private septic system up to 10 years to connect to the public sewer system, provided evidence is submitted annually that verifies that the septic system functions properly and provided no intensification of use on the property occurs, including addition of facilities or other changes that increase sewer discharge.

Proposed Annexation

As indicated previously, staff is proposing annexing three of the five unincorporated islands in the Mt. Eden area as Phase 1 and will be recommending annexation of the other two islands in a subsequent phase, anticipated for next year. A draft Resolution of Application, along with a map of the proposed annexation area showing parcel ownerships and acreages, is attached. Because of State law associated with unincorporated islands, LAFCo must approve the annexation. Also, as has been indicated to staff by the County and due to certain findings, LAFCo is expected to process the application and waive the protest proceedings.

Plan for Providing Municipal Services

As required for annexations, staff has prepared a Plan for Providing Municipal Services (Exhibit E). The Plan provides a summary of changes in service providers, as well as information and estimated costs, anticipated timing and funding sources for needed infrastructure improvements. As indicated in the Plan, new water and sewer mains will be required in areas where they do not

exist, and new stormdrain facilities, including a new box culvert under the Clawiter Road/West Street intersection, will also be needed. As noted in the Plan, properties currently served by the Mohrland Mutual Water Association or served by private wells can remain as is, but will be required to connect to City water if new development occurs. Also, the Plan indicates that those on private septic systems will need to connect to City sewer within 10 years, reflective of the proposed ordinance amendment.

The Plan indicates that construction cost estimates for infrastructure improvements for the proposed annexation area would be around \$9.5 million. It is anticipated that tax increment revenue funds would be sufficient to eventually fund the infrastructure improvements, with residential development in the Saklan Road island anticipated to occur first.

Tax-Sharing and Tax-Increment Revenue Transfer Agreements

Before the LAFCO can act on the proposed annexation, a tax-sharing agreement will be required to be finalized by the City and County. Also, because the annexation area is within the County's Redevelopment Project Area, another agreement between the City and County will need to be completed that identifies what amount of tax increment revenue funds will be transferred from the County Redevelopment Agency to the City, to be used to fund public infrastructure improvements. The details of such agreements are being finalized with County staff. It is anticipated such agreements will be presented to the City Council for consideration within the next 30-60 days.

Environmental Review

Environmental Impact Report

The public comment period for the Mt. Eden Annexation Project Draft Environmental Impact Report (DEIR) ran from May 5 to June 21, 2004. The DEIR was reviewed with the City Council during a work session on May 18, 2004 and with the Planning Commission during a public hearing on June 10, 2004. The Final Environmental Impact Report (FEIR), which contains written responses to comments on the DEIR and revisions where appropriate, was previously distributed to the City Council. Notice of the availability of the FEIR has been provided to all property owners and residents in and within 300 feet of the study area, individuals on the mailing list of interested parties and public agencies that commented on the DEIR. As required by law, copies of the FEIR were distributed to public agencies that commented on the DEIR. No responses from any agency have been received in response to such notices.

In response to concerns made related to relying on the planned Industrial Assessment District improvements to reduce traffic delays at the Hesperian Blvd./West Winton Avenue intersection, the FEIR identifies interim upgrades to that intersection, to ensure impacts to that intersection are addressed until the Industrial Assessment District improvements are completed. Those upgrades would include converting the West Winton Avenue westbound right-turn lane into a shared through/right-turn lane and making adjustments to the West Winton Avenue westbound receiving lanes west of Hesperian Boulevard, lengthening the West Winton Avenue westbound left-turn lane by approximately 300 feet, and moving the Hesperian Boulevard southbound right turn lane (see Exhibit F).

The FEIR includes the revised Summary Table of Environmental Impacts and Mitigations, which indicates that all but one of the significant impacts can be mitigated to less-than-significant levels. The one exception is cumulative traffic impacts associated with regional traffic and roadway congestion, which is a significant and unavoidable impact that requires a statement of overriding considerations to be adopted, if the project is to be approved. A statement of overriding considerations has been included in the attached resolution certifying the Program EIR. Findings of fact for each significant impact that can be mitigated are also incorporated in the attached draft resolution. The proposed Mitigation Monitoring and Reporting Program is included as Exhibit D, which identifies when mitigation measures should be implemented, the parties responsible for ensuring implementation occurs and who is responsible for monitoring such implementation.

Negative Declarations

Negative Declarations have been prepared for the proposed text amendments to the LM District provisions in the Zoning Ordinance and to the sewer connection provisions in the Public Utilities Chapter of the Municipal Code. The Negative Declarations conclude that no significant impacts would occur as a result of the proposed amendments.

Planning Commission Deliberations and Action

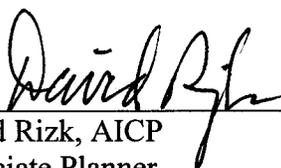
As reflected in the draft minutes of the September 30 Planning Commission meeting (Exhibit G), most comments made related to potential impacts regarding water and septic systems and, in particular, impacts to the Mohrland Mutual Water Association, which provides service to approximately 100 properties in the Mt. Eden area, most of which are in the Phase II annexation area. Staff has been providing such information to residents during community meetings and will provide more information in the future as the Phase II annexation is studied and analyzed.

By a unanimous vote of 5-0, Commissioners approved a motion concurring with staff recommendations, and added an additional component that staff try to resolve as much as possible issues concerning the water and septic systems.

Public Notices

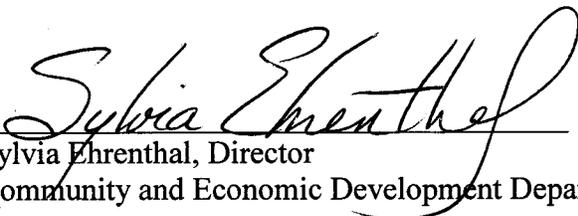
Notice of this public hearing was published in *The Daily Review* on September 22, 2004, mailed to all property owners within the study area, all property owners and residents within 300 feet of the study area and various public agencies and the two Hayward libraries on September 21, 2004. No responses to those notices had been received at the time this report was finalized, with the exception of one letter signed by residents in the area regarding the proposed widening of Middle Lane (Exhibit K).

Prepared by:



David Rizk, AICP
Associate Planner

Recommended by:



Sylvia Ehrenthal, Director
Community and Economic Development Department

Approved by:



Jesús Armas, City Manager

Attachments:

- Exhibit A. Map of Mt. Eden Unincorporated Islands
 - Exhibit B. Map showing Two Phases of Annexation
 - Exhibit C. Map of Proposed Prezonings
 - Exhibit D. Mitigation Monitoring and Reporting Program
 - Exhibit E. Plan for Providing Municipal Services
 - Exhibit F. Sketch showing upgrades to the Hesperian Blvd./West Winton Avenue intersection
 - Exhibit G. Draft Planning Commission Minutes for September 30, 2004
 - Exhibit H. September 30, 2004 Planning Commission Agenda Report (without attachments)
 - Exhibit I. Negative Declaration/Initial Study for Changes to LM District Provisions
 - Exhibit J. Negative Declaration/Initial Study for Changes to Sewer Connection Provisions
 - Exhibit K. Letter from residents regarding Middle Lane widening
- Draft Resolutions (5)
Draft Ordinances (3)

(Copies of the Draft EIR and Final EIR were previously distributed to the City Council.)

Mt. Eden Annexation Areas

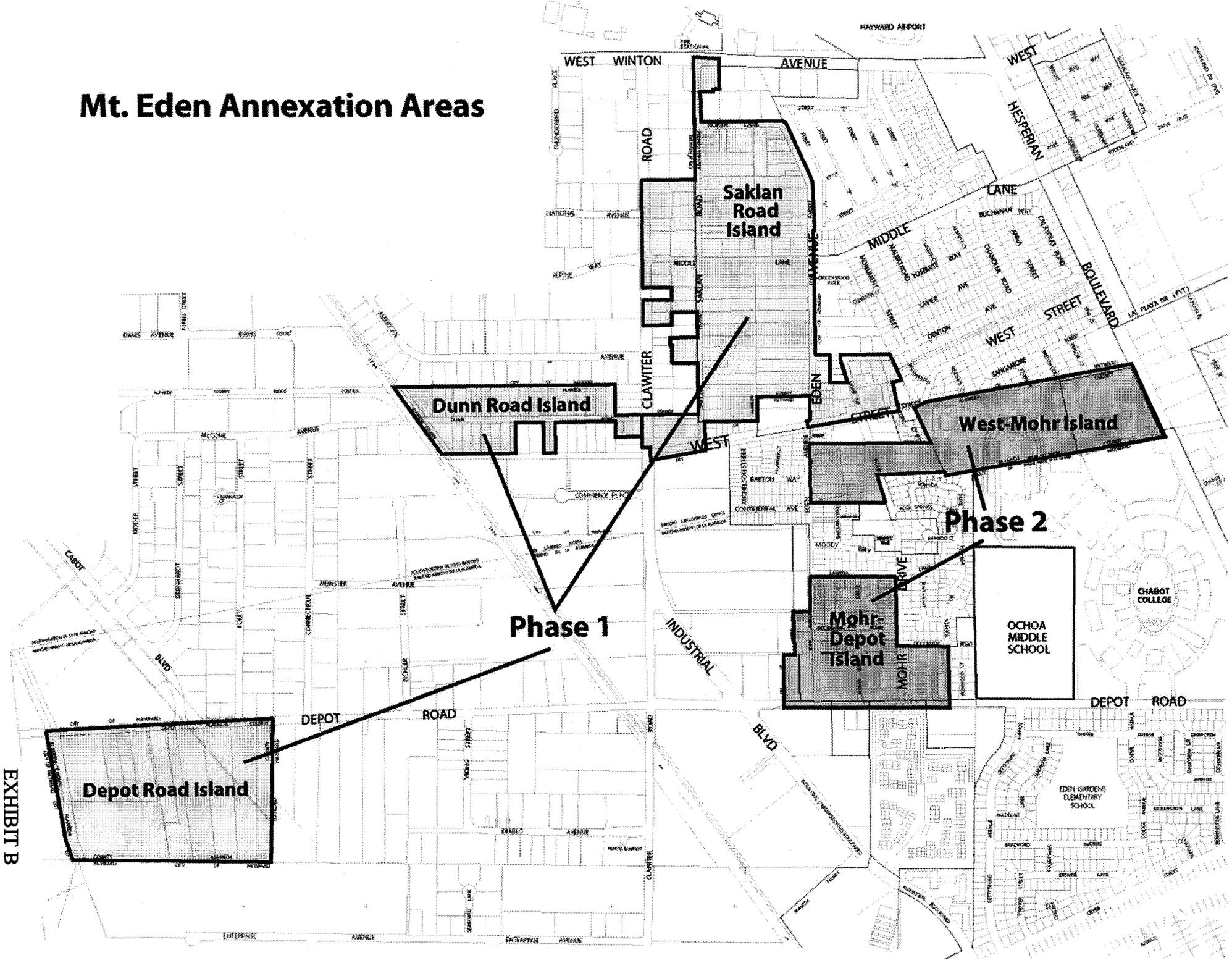


EXHIBIT B

Mt. Eden Area City of Hayward Rezoning Designations

----- Project Area

Per Mt. Eden Neighborhood Plan

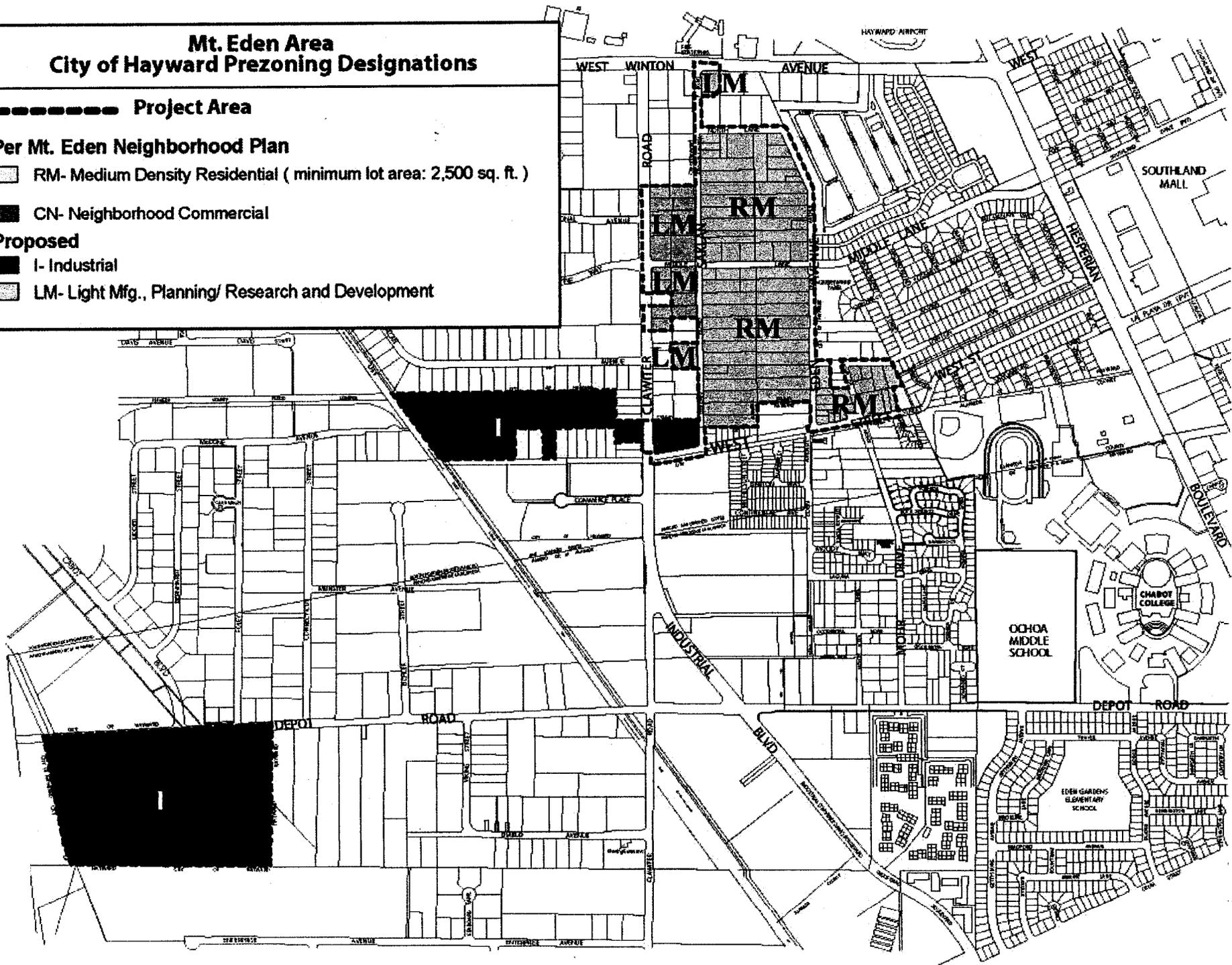
RM- Medium Density Residential (minimum lot area: 2,500 sq. ft.)

CN- Neighborhood Commercial

Proposed

I- Industrial

LM- Light Mfg., Planning/ Research and Development



**Mt. Eden Annexation Project
Mitigation Monitoring and Reporting Program**

September, 2004

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Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact 4.1-1 - seismic ground shaking:</u> During a major earthquake along a segment of the Hayward Fault or one of the other nearby faults, moderate to strong ground shaking can be expected to occur within the Project area. Strong shaking during an earthquake could result in damage to buildings, roads, utility lines and other structures with associated risk to residents, employees and visitors in the area (<i>potentially significant impact and mitigation required</i>).</p>	<p><u>Mitigation Measure 4.1-1:</u> Site specific geotechnical reports shall be required for each building or group of buildings (such as in a subdivision), roads and utility lines constructed in the Project area. Investigations shall be completed by a geotechnical engineer registered in California. Design and construction of structures shall be in accordance with the recommendations contained in the reports. Generally, such recommendations will address compaction of foundation soils, construction types of foundations and similar items. Implementation of these evaluations shall be required to ensure consistency with the California Building Code and all other applicable seismic safety requirements.</p>	<p>Project Developers, including qualified project geotechnical engineers and structural engineers, and grading and construction contractors</p>	<p>City of Hayward Planning Division, Building Division and Engineering and Transportation Division</p>	<p>Investigations shall be conducted prior to submittal of development applications and associated recommendations are to be implemented during grading and construction operations</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact 4.1-2 - ground failure and liquefaction:</u> Damage to structures and other improvements within the Project area could occur from seismically-induced ground failure and liquefaction, resulting in damage to improvements and harm to Project area residents and visitors (<i>potentially significant impact and mitigation required</i>).</p>	<p><u>Mitigation Measure 4.1-2:</u> Site-specific geotechnical reports required as part of Mitigation Measure 4.1-1 shall also address the potential for ground failure and liquefaction and include specific design and construction recommendations to reduce liquefaction and other seismic ground failure hazards to less-than-significant levels.</p>	<p>Project Developers, including qualified project geotechnical engineers and structural engineers, and grading and construction contractors</p>	<p>City of Hayward Planning Division, Building Division and Engineering and Transportation Division</p>	<p>Investigations shall be conducted prior to submittal of development applications and associated recommendations are to be implemented during grading and construction operations</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact 4.2-1 - soil and/or groundwater contamination:</u> Properties within the Project area may contain contaminated soil and/or be located above contaminated groundwater plumes. Construction of new residences and non-residential buildings may expose future residents, employees, visitors and construction personnel to soils and/or water-borne levels of contamination above acceptable regulatory levels, resulting in adverse health effects (<i>potentially significant impact and mitigation required</i>).</p>	<p><u>Mitigation Measure 4.2-1:</u> As part of environmental review for development projects, project applicants shall submit a Phase I Environmental Site Analysis to the City of Hayward. If warranted by the Phase I report, a Phase II report shall be completed and all recommendations included in the Phase II report shall be included in the development Plan. If remediation is required, a hazardous materials work program shall be submitted to the appropriate regulatory agencies with a copy submitted to the Hayward Fire and Community and Economic Development Departments. Necessary permit(s) shall be obtained from the appropriate regulatory agencies. Remediation workers safety plans shall be included within each work plan.</p>	<p>Project Developers, including California-registered environmental assessors and other qualified professionals, such as California-registered geologists, and licensed contractors trained for such work</p>	<p>California Regional Water Quality Control Board, California Department of Toxic Substances Control, Hayward Fire Department, Hazardous Materials Office</p>	<p>Investigations are to be performed as part of environmental review and during the development review process and any required remediation is to be implemented prior to and, if appropriate, during and after construction</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact 4.2-2 - demolition and hazardous air emissions:</u> Demolition of existing buildings, utility facilities and other older facilities could release hazardous and potentially hazardous material into the atmosphere including asbestos containing materials and lead-based paints, potentially resulting in health hazards to construction employees and local visitors and residents (<i>potentially significant impact and mitigation required</i>).</p>	<p><u>Mitigation Measure 4.2-2 (demolition activities):</u> Prior to commencement of demolition activities within the Project area, project developers shall contact the Alameda County Environmental Health Department, Bay Area Air Quality Management District, California Department of Toxic Substances Control and the Hazardous Materials Division of the Hayward Fire Department, for required site clearances, necessary permits and facility closure with regard to demolition and removal of hazardous material from the site. All work shall be performed by licensed contractors in accord with State and Federal OSHA standards. Worker safety plans shall be included for all demolition plans.</p>	<p>Project Developers, including California-registered environmental assessors and other qualified professionals, such as California-registered geologists, and licensed contractors trained for such work</p>	<p>Bay Area Air Quality Management District, California Department of Toxic Substances Control, Alameda County Environmental Health Department, Hayward Fire Department, Hazardous Materials Office</p>	<p>Required site clearances and related permits are to be obtained prior to demolitions and any required measures are to be implemented during demolitions</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact 4.2-2 - demolition and hazardous air emissions, cont...</u></p>	<p><u>Mitigation Measure 4.2-3 (release of asbestos):</u> Prior to commencement of grading activities within the Project area, project developers shall conduct investigations by qualified hazardous material consultants to determine the presence or absence of asbestos containing material in the soil. If such material is identified that meets actionable levels from applicable regulatory agencies, remediation plans shall be prepared and implemented to remediate any hazards to acceptable levels, including methods for removal and disposal of hazardous material. Worker safety plans shall be prepared and necessary approvals and clearances shall be secured from appropriate regulatory agencies, including, but not limited to the Hayward Fire Department, California Department of Toxic Substances Control and the Bay Area Air Quality Management District.</p>	<p>Project Developers, including California-registered environmental assessors and licensed contractors trained for such work</p>	<p>Bay Area Air Quality Management District, California Department of Toxic Substances Control, Alameda County Environmental Health Department, Hayward Fire Department, Hazardous Materials Office</p>	<p>Required site clearances and related permits are to be obtained prior to demolitions and any required measures are to be implemented during demolitions</p>

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<p><u>Impact 4.3-1 - soil erosion:</u> During future construction that could be facilitated by annexation, short-term increases of soil erosion could result due to exposure to wind and water erosion as individual properties are graded and developed (<i>potentially significant impact and mitigation required</i>).</p>	<p><u>Mitigation Measure 4.3-1:</u> Individual development projects within the Project area that disturb 10,000 square feet or more of land area shall prepare erosion and sedimentation control plans for implementation throughout Project construction. The plan should be prepared in accordance with the most current City of Hayward and Regional Water Quality Control Board design standards.</p>	<p>Project Developers, including project engineers and grading and construction contractors</p>	<p>City of Hayward Engineering and Transportation Division, Alameda County Flood Control and Water Conservation District</p>	<p>Plans shall be developed and approved prior to issuance of grading and construction permits and implemented throughout projects construction periods</p>

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<p><u>Impact 4.3-2 - non-point source pollution:</u> The quality of stormwater runoff from the Project area could deteriorate due to development as it picks up increased road surface pollutants, pesticides from increased landscaping, and other urban pollutants that do not presently exist in such high concentrations (<i>potentially significant impact and mitigation required</i>).</p>	<p><u>Mitigation Measure 4.3-2:</u> Any new development or redevelopment projects in the Project area shall implement construction methods that comply with performance standards of Section C.3 of the new NPDES Permit. In addition, for development or redevelopment projects that disturb more than 10,000 square feet of land, a Notice of Intent is required to be filed with the State of California Water Resources Control Board (SWRCB). A Stormwater Pollution Prevention Plan (SWPPP) is also required to be submitted to the SWRCB demonstrating use of specific best management practices during both construction and operational phases of such projects.</p>	<p>Project Developers, including project engineers and grading and construction contractors</p>	<p>City of Hayward Engineering and Transportation Division, Alameda County Flood Control and Water Conservation District, California Water Resources Control Board</p>	<p>Plans incorporating appropriate construction methods shall be developed and approved prior to issuance of grading and construction permits and implemented throughout projects construction periods and, if appropriate, during operational phases of projects</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact 4.3-3 - stormwater runoff and drainage patterns:</u> Future development within the Project area will increase the amount of stormwater runoff, since existing undeveloped or minimally developed properties would be converted to new structures, parking areas, roads and similar impervious surfaces. Existing drainage patterns will also be changed based on individual site grading operations, with resulting impacts to downstream drainage facilities <i>(potentially significant impact and mitigation is required)</i>.</p>	<p><u>Mitigation Measure 4.3-3:</u> All new major development applications (involving 10,000 square feet of land area) within the Project area shall be accompanied by a drainage and hydrology study, prepared by a California-registered civil engineer. Each report shall document existing drainage quantities and direction, estimated increases in stormwater runoff from the proposed Project, an identification of existing and proposed funding of downstream drainage facilities and the capacity of such systems to accept additional run-off and the proposed Project's contribution to increasing the capacity of such systems, if needed. New development projects will be required to provide on-site detention, retention facilities and/or other improvements required by such studies to ensure that no net increase in downstream rate of stormwater flows occurs. Reports shall be approved by the Hayward City Engineer and Alameda County Flood Control and Water Conservation District staff prior to issuance of a grading permit.</p>	<p>Project Developers, including project engineers and grading and construction contractors</p>	<p>City of Hayward Engineering and Transportation Division, Alameda County Flood Control and Water Conservation District</p>	<p>Studies shall be developed and approved prior to issuance of grading and construction permits and implemented throughout projects construction periods</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p>Impact 4.3-4 – flooding: Portions of the Project area lie within a 100-year flood hazard area and new construction within the area could be subject to flood damage during severe storms (<i>potentially significant impact and mitigation is required</i>).</p>	<p>Mitigation Measure 4.3-4: For future development within a 100-year flood hazard area, future project applicants shall:</p> <ul style="list-style-type: none"> a) Submit a hydrology and hydraulic study prepared by a California-registered civil engineer proposing to remove the site from the 100-year flood hazard area through increasing the topographic elevation of the site or similar steps to minimize flood hazards. The study shall demonstrate that flood waters would not be increased on any surrounding sites. b) Comply with Article 4 of Chapter 9 (Flood Plain Management) of the Hayward Municipal Code, which establishes minimum health and safety standards for construction in a flood hazard area. c) Apply to the City for a Conditional Letter of Map Revision to remove the site from the FEMA Flood Insurance Rate Map 100-year flood hazard area. 	<p>Project Developers, including project engineers and grading and construction contractors</p>	<p>City of Hayward Engineering and Transportation Division, Alameda County Flood Control and Water Conservation District and, if appropriate, the Federal Emergency Management Agency</p>	<p>Studies and plans shall be developed and approved prior to issuance of grading and construction permits and implemented throughout projects construction periods</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact 4.4-1 - construction noise impacts:</u> Future residents within and adjacent to Project area could be subject to short-term but potentially significant noise due to the construction of new buildings, roadway improvements and associated infrastructure improvements within the Project area (<i>potentially significant and mitigation required</i>).</p>	<p>Adherence to Section 4-1.03 of the Hayward Municipal Code will ensure that short-term construction noises would be less-than-significant.</p>	<p>Project Developers, including project contractors</p>	<p>City of Hayward Planning and Building Divisions</p>	<p>During projects construction</p>
<p><u>Impact 4.4-2 - permanent noise impacts:</u> Future construction of residences along the east side of Clawiter Road within the Project area could be subject to exterior noise levels within the “conditionally acceptable” noise level identified in the General Plan Noise Element (<i>potentially significant and mitigation required</i>).</p>	<p><u>Mitigation Measure 4.4-2:</u> Site-specific acoustic reports shall be prepared by a qualified acoustic consultant for future residential construction located along the east side of Clawiter Road. Each report shall include an analysis of potential noise exposure from residential development and include specific measures to reduce exposure levels to City of Hayward noise standards.</p>	<p>Project Developers, including qualified acoustical consultants</p>	<p>City of Hayward Planning and Building Divisions</p>	<p>Acoustic studies shall be prepared prior to submittal of development applications. Any recommendations from such reports shall be implemented during construction.</p>

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<p>Impact 4.4-4 - vibration impacts: Future construction within the Dunn Road and Depot Road subareas could be subject to potentially significant vibration levels from railroad operations and truck activities (<i>potentially significant and mitigation required</i>).</p>	<p>Mitigation Measure 4.4-4: Future development within the Dunn Road and Depot Road subareas where vibration impacts are suspected to be a problem shall be reviewed for potential vibration impacts at the time such development is submitted for City of Hayward review. If warranted, building foundations and other improvements shall be designed to reduce vibration levels to a less-than-significant level, including excavation and compaction of site soils, special foundation designs and structural design.</p>	<p>Project Developers, including qualified acoustical consultants and structural engineers</p>	<p>City of Hayward Planning and Building Divisions</p>	<p>Acoustic-vibration impact analyses shall be prepared prior to submittal of development applications. Any recommendations from such reports shall be implemented during construction.</p>
<p>Impact 4.5-2 - cumulative traffic impacts: Anticipated development within the Project area will be consistent with land use density and intensity as set forth in the General Plan. (<i>This impact is considered significant and unavoidable; therefore, a statement of overriding considerations will be required</i>).</p>	<p>No mitigation measures available - See statement of overriding considerations.</p>			

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<p><u>Impact 4.7-1 - local and community park and recreation facilities:</u> Approval of the proposed annexation and subsequent development within the City of Hayward would increase the demand for local and community park and recreation facilities within the Mt. Eden area by 8.3 acres of parkland (<i>potentially significant and mitigation required</i>).</p>	<p><u>Mitigation Measure 4.7-1:</u> Payment of park dedication in-lieu fees or dedication/development of parkland and/or recreation facilities, as approved by HARD, at the time future development is permitted, will mitigate the demand for future parks. Possibilities for enhanced park and recreation facilities in and adjacent to the Project area may include the expansion and development of Greenwood Park, and/or the expansion of joint use facilities at Chabot College and Ochoa Middle School/Rancho Arroyo Park and a 3.55-acre area just west of the Waterford apartment complex along Depot Road within City limits, which is identified as a potential park site in the Mt. Eden Neighborhood Plan.</p>	<p>Project Developers</p>	<p>City of Hayward Planning Division, Hayward Area Recreation and Park District and, if involved, State of California and South County Junior College District (Chabot College) and the Hayward Unified School District</p>	<p>For park dedication in-lieu fees, payments shall be made prior to project finalization and issuance of certificates of occupancy.</p> <p>Other mitigation measures, including construction of new park facilities, are to be completed prior to project finalization and issuance of certificates of occupancy, or as arranged with the Hayward Area Recreation and Park District.</p>

<p align="center">Significant Environmental Impact</p>	<p align="center">Mitigation Measure</p>	<p align="center">Implementing Responsibility</p>	<p align="center">Monitoring Responsibility</p>	<p align="center">Timing</p>
<p><u>Impact 4.7-3 - local schools:</u> Future development within the Project area would generate an estimated 190 elementary school students, 43 middle school students and 100 high school students at buildout of General Plan residential land use mid-range densities (<i>potentially significant and mitigation required</i>).</p>	<p><u>Mitigation Measure 4.7-3:</u> Prior to approvals of land use entitlements for individual development projects within the Project area by the City of Hayward, each project proponent shall pay school impact mitigation fees in effect at the time building permits are granted, or provide other mitigation as found acceptable by the Hayward Unified School District.</p>	<p>Project Developers</p>	<p>City of Hayward Planning Division, Hayward Unified School District</p>	<p>For school impact fees, payments shall be made prior to project finalization and issuance of certificates of occupancy.</p> <p>Other mitigations are to be completed prior to project finalization and issuance of certificates of occupancy, or as arranged with the Hayward Unified School District.</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact 4.8-1 - loss of trees:</u> Future widening of streets within the Project area to accommodate anticipated development would result in loss of trees protected under the City's Tree Preservation Ordinance. Other protected trees would likely be removed on private property to accommodate development envisioned in the Hayward General Plan (<i>potentially significant impact and mitigation required</i>).</p>	<p><u>Mitigation Measure 4.8-1:</u> Prior to widening of any streets within the Project area or development on private properties where protected trees exist, a tree survey shall be completed by a qualified arborist to determine if protected trees could be preserved and to identify specific preservation methods. If preservation is not feasible, a tree replacement plan shall be prepared in conformity with the City's Tree Preservation ordinance and approved by the Hayward Community and Economic Director.</p>	<p>Project Developers, including project certified arborists</p>	<p>City of Hayward Planning Division and Public Works Department</p>	<p>Tree surveys and associated recommendations are to be completed prior to public street improvement projects or private developments. Recommendations, including planting of new replacement trees, are to be implemented during construction of public street improvement projects and private development projects.</p>

**CITY OF HAYWARD
PROPOSED MT. EDEN ANNEXATION**

PLAN FOR PROVIDING MUNICIPAL SERVICES

The City of Hayward has undertaken a comprehensive study of annexation of an area consisting of three of the five unincorporated islands in the Mt. Eden area, which are completely surrounded by the City. The three islands proposed for annexation are the Saklan Road island, the Dunn Road island and the Depot Road island, which are comprised of approximately 138 acres, including 20 acres of road rights-of-way. The unincorporated islands are located in the western portion of the City's Sphere of Influence, generally south of West Winton Avenue, west of Hesperian Boulevard and north of State Route 92 (see Attachment 1). The City will be submitting an application to the Local Agency Formation Commission of Alameda County to annex each of the three unincorporated islands.

Information and analysis from the annexation study has resulted in proposed new rezoning designations for the Dunn and Depot Road islands, and modified rezoning designations for the western portion of the Saklan Road island. The remaining portions of the Saklan Road island have rezoning designations that were established by the City in 1990 with the adoption of the Mt. Eden Neighborhood Plan, which are not proposed to be changed. No changes to Hayward's General Plan land use designations are proposed.

All three islands, as well as the other two unincorporated islands in the vicinity, are and will remain within the Mt. Eden subarea of the Alameda County Redevelopment Project area. A fiscal impact analysis prepared by a financial consultant for the City projects future potential revenues and costs, including tax increment revenues, for development scenarios described in a subsequent section in this document. An agreement between the City and Alameda County specifies what amount of tax increment revenue funds will be transferred to the City, to fund public infrastructure improvements. Please refer to the discussion on page 11 for a more detailed discussion on plans to utilize tax increment revenue financing to fund infrastructure improvements.

A program environmental impact report (EIR) has been certified by the City to address potential environmental impacts associated with the proposed annexation and rezoning, infrastructure improvements and anticipated future development. That EIR is also intended to serve as the environmental document for the proposed annexation action.

Also, as a result of discussions with Supervisor Gail Steele, County staff and area residents, the City and County will be coordinating efforts to pursue annexation of the remaining two unincorporated islands in the Mt. Eden area as a subsequent phase in the near future. Separate study and environmental analysis associated with that proposal will be done, and an application for annexation of those two islands is anticipated to be submitted after such study and analysis is completed.

LAND USE AND ZONING

County development policies for the proposed annexation area are contained in the 1983 *Unincorporated Eden Area (portion) Plan*. However, the County is in the process of developing a new *Eden Area General Plan*, with an associated environmental impact report expected to be released near the end of 2004. The current County land use designation for the entire Mt. Eden area is Low Density Residential (less than nine units per acre); however, proposed land use designations for the new *Eden Area General Plan* are consistent with City land use designations. City General Plan land use designations are Medium Density Residential (8.7-17.4 dwelling units per net acre) for the majority of the Saklan Road island (areas east of Saklan Road), Retail and Office Commercial for the southwest corner of the Saklan Road island and Industrial Corridor for the remaining portions of the Saklan Road island and for the Dunn Road and Depot Road islands. The existing County and City General Plan land use designations for the proposed annexation area are shown in Attachment 2.

As shown in Attachment 3, existing County zoning designations are single-family residential (PD R-1 L B-20, minimum lot size of 20,000 square feet) for the majority of the Saklan Road island properties, light industrial (M-1) for the western portion of the Saklan Road island and most of the Dunn Road island parcels and heavy industrial (M-2) for the Depot Road island properties. The City rezoning designations for the annexation area are also shown in Attachment 3. The rezoning is based on General Plan land use designations and, as stated previously, on the Mt. Eden Neighborhood Plan. The majority of the Saklan Road island is rezoned Medium Density Residential, minimum lot area of 2,500 square feet (RM). The western portion of the Saklan Road island is rezoned Light Manufacturing, Planning/Research and Development (LM), with the southwest portion rezoned Neighborhood Commercial (CN). The Dunn Road and Depot Road islands, which were not part of the Mt. Eden Neighborhood Plan area, are rezoned Industrial (I), to reflect surrounding uses and City zoning designations.

EXISTING AND POTENTIAL DEVELOPMENT

As reflected in Attachment 4, according to County Assessors Office records, development within the proposed annexation area consists of:

- Saklan Road island: predominantly single-family dwellings, with some industrial uses and lots, and a nursing home,
- Dunn Road island: industrial and warehouse uses, with eight single-family dwellings, and
- Depot Road island: a variety of industrial uses, consisting primarily of auto wrecking yards.

According to Census 2000, the population within the proposed annexation area in 2000 was 313 and the number of housing units was 81. Since new development cannot occur without access to public sewer and water systems and City policy approved in 1995 has not allowed access to those systems unless annexation occurs or a public health situation exists due to failure of a private septic system or well, it can be assumed that no significant change to population or number of housing units has occurred since 2000. Also, according to the Alameda County Registrar's Office, as of September 2004, there were 110 registered voters within the proposed annexation area.

Applying a density that represents the approximate midpoint of the existing Medium Density Residential General Plan land use designation, it is anticipated that 475 additional new residences could be built in the Saklan Road island east of Saklan Road. Applying the Census 2000 average household size of 3.08 persons per household, an additional 1,463 persons are projected to reside in the annexation area.

Regarding potential non-residential development, recognizing existing General Plan land use designations, it is projected that future non-residential development would consist of 540,000 square feet of research and development and/or business park uses in the Depot Road island, approximately 229,000 square feet of light industrial floor space in the Dunn Road island, 160,540 square feet of light industrial floor space in the Saklan Road island west of Saklan Road and 28,000 square feet of neighborhood commercial uses in the southwest corner of the Saklan Road island.

EXISTING MUNICIPAL SERVICES AND PROPOSED CHANGES

Most of the proposed annexation area is not served by public utility systems, including water and sewage disposal, although approximately 25 properties in the southeast portion of the Saklan Road island are served by a private water company, the Mohrland Mutual Water Association. If annexation is approved, existing development within the annexation area would have the opportunity to connect to such systems, and any future development would be required to do so. A summary of existing and proposed public service and utility providers is included as the last page of this document. Summary descriptions of the municipal services and utilities currently provided and any proposed changes are outlined in the following paragraphs.

Police Services

For the proposed annexation area, law enforcement services are provided primarily by the Alameda County Sheriff's office, with the nearest facility being the Eden Township substation, located at 15001 Foothill Boulevard in San Leandro. The Sheriff's office is the first responder for emergency calls for service and also provides patrol, detection and school resource officers for residents of the unincorporated portion of Alameda County, with the Hayward Police Department also providing emergency calls for service. Traffic services are not provided by the Sheriff. The Sheriff's Department patrol beat for the unincorporated Mt. Eden area is shared with other unincorporated portions of the County in the San Lorenzo area.

The Hayward Police Department provides police protection within the community, including crime prevention, investigation services, traffic control and animal control services to City residents. Services are provided out of a main headquarters facility located at 300 Winton Avenue. The adopted 2004-05 City budget indicates the Department includes a staff complement of 188 sworn officers out of a total staff of approximately 300. The Department also maintains a variety of vehicles and support equipment. The Department goal for response times for calls for service average three minutes for emergency calls and ten minutes for non-life-threatening calls. The Hayward Police Department responded to 97 calls for service in the Project area in 2003, 150 calls in 2002, 104 calls in 2001 and 111 in 2000.

Approval of the proposed annexation and related potential new development would represent an incremental increase in calls for service to the Police Department. Increases in calls for police services will be evaluated periodically as part of the City's normal budget cycle. Upon annexation, the area would be served by the Hayward Police Department and the Alameda County Sheriff would no longer have primary jurisdiction within this area. Residents of the Project area would benefit from a higher level of service, since the City maintains a higher officer-per-resident ratio than the County. Emergency response time would likely be improved, with a greater number of police personnel on patrol with smaller beat responsibilities.

Fire Protection Services

Fire and emergency medical service to the proposed annexation area is provided primarily by the Hayward Fire Department. The Department provides fire suppression, emergency medical, fire prevention, hazardous materials response and related services. The Department employs a staff of 137 with 62 firefighters certified as paramedics. Hayward Fire Department staff responds to approximately 13,000 calls for service per year. Eight operating stations are maintained by the Department, which house ten fire companies. These consist of eight engine companies, which are first responders and provide fire suppression, and two truck companies that provide structural entry, ventilation, laddering and rescue operations as well as medical response.

The fire station nearest the proposed annexation area is Fire Station #6, located near the intersection of West Winton Avenue and Saklan Road (140 West Winton Boulevard), which has one fire engine and three firefighters. The Department has adopted response time criteria for emergency calls for service, including a response of five minutes for arrival of the first engine company to a call, an arrival time of seven minutes for the first truck company and the arrival of the balance of Fire Department within ten minutes. Given the close proximity of Station #6 to the proposed annexation area, the response time for the primary company would be well within the City's response criteria. The Hayward Fire Department responded to 24 calls for service in the annexation area in 2003, 21 calls in 2002, 31 in 2001 and 29 in 2000.

In 1983, the City and County entered into an agreement whereby the City would provide primary fire protection services for the unincorporated lands in west Hayward, with reimbursement provided by the County for services rendered. Under this agreement, the Hayward Fire Department has historically been and will continue to be the primary fire protection agency for the proposed annexation area and unincorporated areas in the Mt. Eden vicinity. Secondary fire protection service is provided by the Alameda County Fire Department, headquartered in San Leandro. Nearest County fire stations include Fire Station #1, located at 437 Paseo Grande in San Lorenzo and Fire Station #2, located just north of the City limits at 109 Grove Way. The proposed annexation would allow full service of the annexation area by the Hayward Fire Department.

Future construction of new residential and non-residential development anticipated in the proposed annexation area would increase the risk of fire to future residents, employees and visitors by adding new dwelling units and non-residential floor space. However, the planned extension/improvements of Hayward's water system within the annexation area would significantly assist in increasing fire safety in the area by providing a reliable water supply with adequate water pressure. The number of calls for service for medical emergencies would increase based on a higher resident and employee population. The timing of such increases is

unknown and would be dependent on market forces. Increases in calls for fire services will be evaluated periodically as part of the City's normal budget cycle.

Water

As shown in Attachment 5, approximately 22 of the 150 properties within the proposed annexation area are connected to the City's public water system (via individual utility service agreements), approximately 25 properties are served by the Mohrland Mutual Water Association (MMWA), a private water company, with the remainder of the developed properties within the annexation area being served by private wells. The primary source of water for the MMWA, which provides unmetered water service for approximately 100 properties, is a 600-foot deep well on the MMWA property, located in Hayward to the south of the annexation area along Mohr Drive.

Water Supply and Distribution

The City owns and operates a public water distribution system, including transmission lines, pump stations and water turnouts. Hayward supplies water to all but a small portion of the residential, commercial, industrial and institutional entities within the City boundaries and to a select number of properties outside the City limits through special approvals/utility service agreements. In 2003, the average daily demand was 18.5 million gallons per day. Hayward's sole source of potable water is the San Francisco Public Utilities Commission (SFPUC), through the Hetch Hetchy Water System. The SFPUC system is a regional water system that serves 28 other local cities and districts, in addition to the City of San Francisco. In the early 1960s, Hayward and the SFPUC entered into an agreement that provides for the supply of all the water that Hayward needs in perpetuity, as long as water supplies are normal. Recent legislation requires SFPUC to implement some of the more critical supply reliability projects. To this end, the SFPUC has embarked on a \$3 billion capital improvement program to improve the reliability and redundancy of the regional water system. During periods of drought, the City is required to cut back water demand to a specified level, similar to what other agencies would be required to do.

On the distribution side, water is delivered to the City via two aqueducts that have a maximum capacity of 32 million gallons per day. The water distribution system, which is owned and operated by the City, provides sufficient water supply and pressure to service existing needs, including peak demand, fire protection and other emergencies. In 2002, Hayward updated its Water Distribution System Master Plan to identify needed improvements through 2020. Recommended projects have been incorporated into the Capital Improvement Program.

Hayward has adopted a water efficient landscape ordinance that will assist in minimizing future water use of developer-installed irrigation systems for new landscaping associated with new development. Also, Hayward has entered into emergency intertie agreements with Alameda County Water District and East Bay Municipal Utilities District to provide water in the event that a limited term emergency or planned maintenance cuts off or severely reduces water supply to the City. Additionally, the City has five emergency wells capable of producing 13.6 million gallons per day.

Future Distribution and Supply

Prior to expanding the distribution system into the annexation area, the City would need to

approve a “backbone” distribution system. For example, as shown in Attachment 5, City water mains do not exist along North Lane, Eden Avenue, Mohr Drive and most of Saklan Road in the Saklan Road island and do not exist along most of Dunn Road.

Approval of the proposed annexation and installation of public infrastructure improvements would allow future water service for the entire Project area by the City. It is expected that properties currently served by Mohrland Water would continue to receive water from this source until a change occurs, such as redevelopment, a change in use or intensification of the existing use. It is likely that this private service would eventually be limited to providing water for irrigation and other non-potable uses, where adequate back-flow prevention devices exist.

Water Demand Estimates for Annexation Area

Implementation of the proposed annexation would increase demand for water for domestic and fire fighting purposes within the annexation area. Planning estimates yield a total overall water demand of just under 300,000 gallons per day (gpd) when the area is fully developed. The estimated water demands for residential and non-residential uses, and the assumptions on which they based, are described in the associated environmental impact report. In summary, total projected average daily water use for future residential development will be 190,000 gallons per day (gpd) and 109,200 gpd for all non-residential uses, resulting in a total estimate for all uses within the proposed annexation area of 299,200 gpd.

SB 610 Water Supply Assessment

The Mt. Eden Annexation project is subject to an SB 610 water supply assessment because the project is expected to have an ultimate water demand greater than the amount of water required to serve 500 dwelling units, when considering both residential and non-residential water usage. The SB 610 assessment is provided in the related environmental impact report (EIR). Based on Hayward’s most recent Urban Water Management Plan, analysis of recent water demand data, and known or anticipated future water demands, the EIR indicates that sufficient water supplies will be available during normal, single dry and multiple dry water years during a 20-year projection to meet the projected water demand associated with the proposed annexation, in addition to the existing and planned future uses.

Costs

As shown in Attachment 8, based on 1993 improvement plans that were developed by Alameda County, cost estimates in 2004 dollars for water system upgrades for the proposed annexation area are approximately \$995,000. Funding sources for the upgrades are identified on page 11.

Wastewater

As shown in Attachment 6, approximately 40 properties within the proposed annexation area are connected to the City’s wastewater collection and treatment system. Upon annexation of unincorporated properties to the City, existing private septic systems would eventually be phased out, since the Municipal Code requires that all properties within 200 feet of a public sewer system connect to that system. A recent amendment would provide for a ten-year period to allow Mt. Eden annexation area properties to connect.

Collection and Treatment

The City is responsible for collection and treatment of wastewater within the community. Wastewater is collected and transported via a number of major trunk sewers to the City's wastewater treatment plant located at the terminus of Enterprise Avenue in western Hayward. The plant currently treats an estimated 13.4 million gallons per day (mgd) of wastewater and has a rated capacity of 16.5 mgd. Major improvements to the plant are being designed to increase the plant's treatment reliability and unit processes redundancy. The improvements are scheduled for construction in the next three years. Treated effluent from the plant is disposed through East Bay Dischargers Authority facilities within San Francisco Bay.

Future Collection and Treatment

Wastewater generation would be increased should the proposed annexation be approved and additional development facilitated, primarily due to an increase in domestic water use. The amount of wastewater generation would be a function of water use. The quantity of increased wastewater demand anticipated to be generated from residential development in the annexation area would be 109,250 gallons per day, based on an average flow of 230 gallons per day per dwelling unit. This figure is slightly higher than the City-wide average of 200 gpd, as it accounts for growth in indoor water use, and associated discharge, by 2020.

About 70% of total commercial/industrial consumption is discharged to the sanitary sewer system; thus, it is reasonable to estimate that approximately 76,500 gpd (70% of 109,200) of wastewater discharge will be generated from anticipated future non-residential development. Future development within the Project area, consistent with the General Plan, could be accommodated within the City's wastewater treatment and disposal system.

However, prior to expanding the wastewater collection system into the project area, the City will need to approve a "backbone" collection system. For example, and as reflected in Attachment 6, new sewer mains would be needed along North Lane, most of Eden Avenue, portions of Saklan Road and along Dunn Road.

Costs

As shown in Attachment 8, based on 1993 improvement plans developed by the County, it is estimated that upgrades to the public wastewater collection system would cost approximately \$258,000 in 2004 dollars. Anticipated funding sources to pay for such upgrades are identified on page 11 in a subsequent section.

Storm Drainage

Attachment 7 shows existing storm drain facilities. If annexation and subsequent development is approved, storm drain system upgrades will be required, to include installation of new storm drain culverts underneath North Lane, Middle Lane and Dunn Road. Also, a new storm drain box culvert will be required under the intersection of West Street and Clawiter Road, to improve drainage in that area during storm events.

Stormwater runoff is presently accommodated via drainage in local streets where it is collected in the local City or County systems and transported via a regional drainage system maintained by the Alameda County Flood Control and Water Conservation District (ACFCWCD), Zone 4, for ultimate discharge into San Francisco Bay. As shown in Attachment 7, local drainage within the

annexation area and surrounding lands flows to regional Line A that runs parallel to and south of West Street, continues westward, south of Dunn Road, eventually transporting stormwater to San Francisco Bay.

Costs

Attachment 8 indicates that estimated construction costs for storm drain system improvements/upgrades are \$1.18 million. Anticipated funding sources to pay for such upgrades are identified on page 11 in a subsequent section in this plan.

Flood Control

Approximately one-third of the Dunn Road island (to the southwest) and the westerly one-half (approximately) of the Depot Road island are within the 100-year flood hazard zone. The remaining portions of the annexation area, including all of the Saklan Road area, lie outside of the 100- or 500-year flood hazard zones. The annexation area is within Zone 4 of the Alameda County Flood Control and Water Conservation District (ACFCWCD). There would be no changes in service due to annexation.

Stormwater Quality Programs

Both the County and City have water quality programs and requirements, related to the NPDES permit issued for agencies in Alameda County. Fees assessed on a parcel-specific basis fund such programs. Residential parcels would require additional service to respond to spill reports and illicit discharge surveys; however, these responses would represent marginal increases to the overall inspection and survey efforts.

New Street Construction

All roadways within the proposed annexation area are public roadways, many of which lack curbs, gutters and sidewalks. No new public roadways are planned and private roadways and circulation within individual development projects would be created and paid for by private developers. Based on 1993 improvement plans developed by the County, several roadways will be required to be widened. Consistent with the General Plan, Middle Lane is proposed to be widened to serve as a major collector street in the area, to help carry traffic from the industrial areas to the west to Hesperian Boulevard to the east. The 1993 improvement plans show that Middle Lane would be widened to match the portion of Middle Lane located east of the annexation area that leads to Hesperian Boulevard, being a four-lane road with no parking along the street, with two lanes of traffic in each direction.

Costs

Attachment 8 shows that the construction cost estimates for street improvements and related upgrades is approximately \$3.9 million for street improvements, new street lights and modifications to existing traffic signals. The table indicates a 50% markup on cost estimates, to account for right-of-way acquisition, surveying, inspection, design, etc. See the later section on page 11 regarding anticipated funding sources for such improvements.

Street Maintenance

If annexation is approved, maintenance for all public streets and associated traffic operations and street lighting within the annexation area would be provided by the City.

Assessment Districts

Maintenance for landscaping and related improvements associated with new development within the annexation area is anticipated to be funded through special assessments or homeowners association fees imposed on residents in new developments.

Solid Waste Disposal and Recycling

Waste Management, Inc. has a franchise agreement with the City to provide solid waste collection to both residences and businesses within Hayward. Residential recycling services are provided under the same franchise. However, business recycling services are not provided under the City's franchise agreement with Waste Management, Inc. and are not subject to said franchise. Solid waste is transported to the Altamont Landfill in eastern Alameda County on Greenville Road, which is owned and operated by Waste Management Inc. The landfill has an estimated remaining capacity through the year 2024.

The proposed annexation area is also served by Waste Management, Inc. pursuant to a franchise agreement with Alameda County. Garbage and recycling collection services are comparable with those provided to residents and businesses within Hayward. Comparable services include weekly curbside collection of garbage, recyclables, and green waste for residents of single-family dwellings. The differences in service include a different type of container provided for single-family dwellings in which to store commingled recyclables for placement at the curb, and every-other-week recyclable collection for multi-family dwellings.

Annexation would have minimal impact on the solid waste collection service provider for existing properties, since all solid waste in both the annexation area and the City is presently being collected by Waste Management, and hauled to Altamont, regardless of governmental jurisdiction. Existing garbage and recycling collection services are similar to those provided residents and businesses within Hayward. The fees for those services are comparable to those assessed for incorporated residents and businesses.

New development in the annexation area would increase the amount of short-term construction debris, as well as solid waste that would be generated. Additional equipment and personnel may be needed to collect this increased amount of solid waste. Fees and user charges would offset any increased capital and/or personnel costs. Hayward's existing franchise agreement with Waste Management expires in May 2007, at which time the properties in the proposed annexation area could be included in a new contract.

Library Services

The Hayward library system serves residents within Hayward and in the proposed annexation area. Residents in the annexation area and other unincorporated portions of Alameda County are

also served by the Alameda County Library system.

The Hayward library system includes the Main Library, located at 835 "C" Street and the Weekes Branch Library, located at 27300 Patrick Avenue. Both branches are open six days per week. The nearest Alameda County branch libraries to the proposed annexation area are the Castro Valley Branch Library, located at 20055 Redwood Road, and the San Lorenzo Branch Library, located at 395 Paseo Grande. The Castro Valley and San Lorenzo branches are open six days per week. The impacts on library operations due to annexation would be expected to be minimal.

Public Schools

All of the proposed annexation area is within the Hayward Unified School District. The annexation area is within the Eden Gardens Elementary School, Ochoa Middle School and Mt. Eden High School attendance areas. Estimated future development would be expected to generate 190 elementary school students, 43 middle school students and 100 high school students. Developers would be obligated to pay the required school impact fees to mitigate impacts of these additional students on the schools.

Parks and Recreation

The annexation area and all of the City are within the Hayward Area Recreation and Park District (HARD) service area. Anticipated development would be expected to generate the need for an additional 8.3 acres of new local parkland. Payment of park in-lieu fees or dedication of new parkland and or recreation facilities, as approved by HARD, at the time future development is permitted would be expected to mitigate the demand for future parks.

Transit

The proposed annexation area is within the Alameda-Contra Costa Transit District service area and is also serviced by the Bay Area Rapid Transit District. No changes in existing service are anticipated as a direct result of this annexation at this time.

Electricity/Telephone/Cable

Pacific Gas and Electric Company currently provides electricity and gas service to the annexation area and would continue to do so after annexation. SBC provides primary telephone and telecommunication facilities in the annexation area and would continue to do so after annexation. Other telephone and telecommunication facilities are available as well. ComCast is the cable service provider for this area, which would not be impacted as a result of annexation.

FUNDING SOURCES FOR INFRASTRUCTURE IMPROVEMENTS

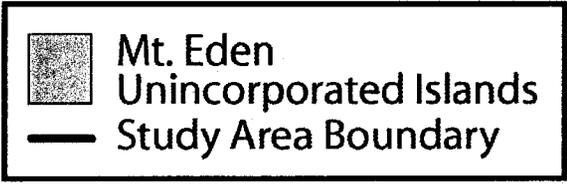
As indicated previously, the proposed annexation area is located in Alameda County's Redevelopment Project area, which was formed in 2000. Any increases in property tax revenues due to new development would go to the County's redevelopment project fund, versus the general fund of Hayward. The City and County have entered into an agreement, where tax increment revenues generated from new development will be transferred to the City. Hayward anticipates using those revenues to fund public infrastructure improvements.

Projected net tax increment revenue funds would be \$1.31 million in 2008 when new residential development is anticipated to be completed and \$1.74 million in 2018, after new non-residential development is projected to be constructed. Between 2005 and 2018, cumulative net tax increment revenues are projected to total nearly \$20 million.

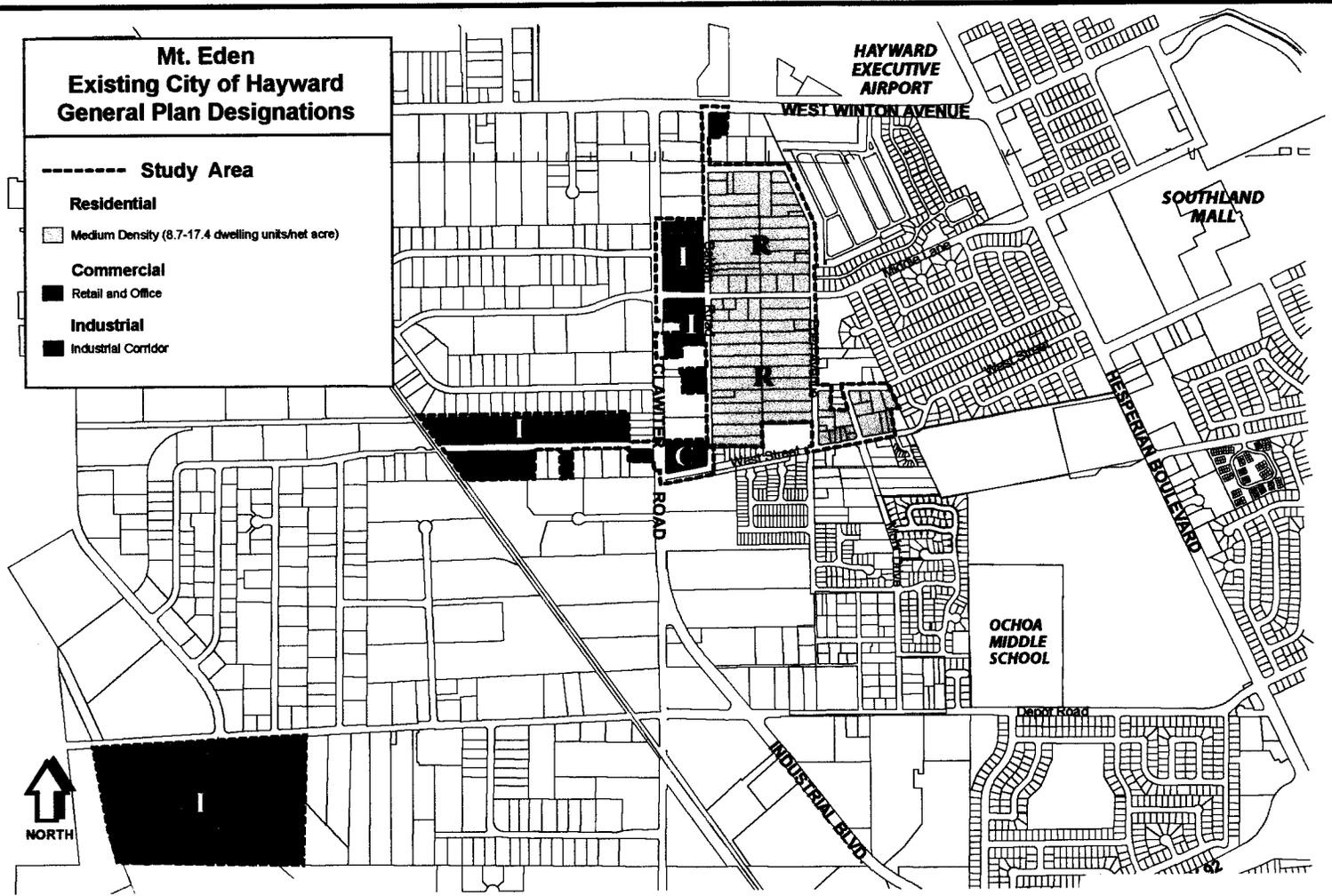
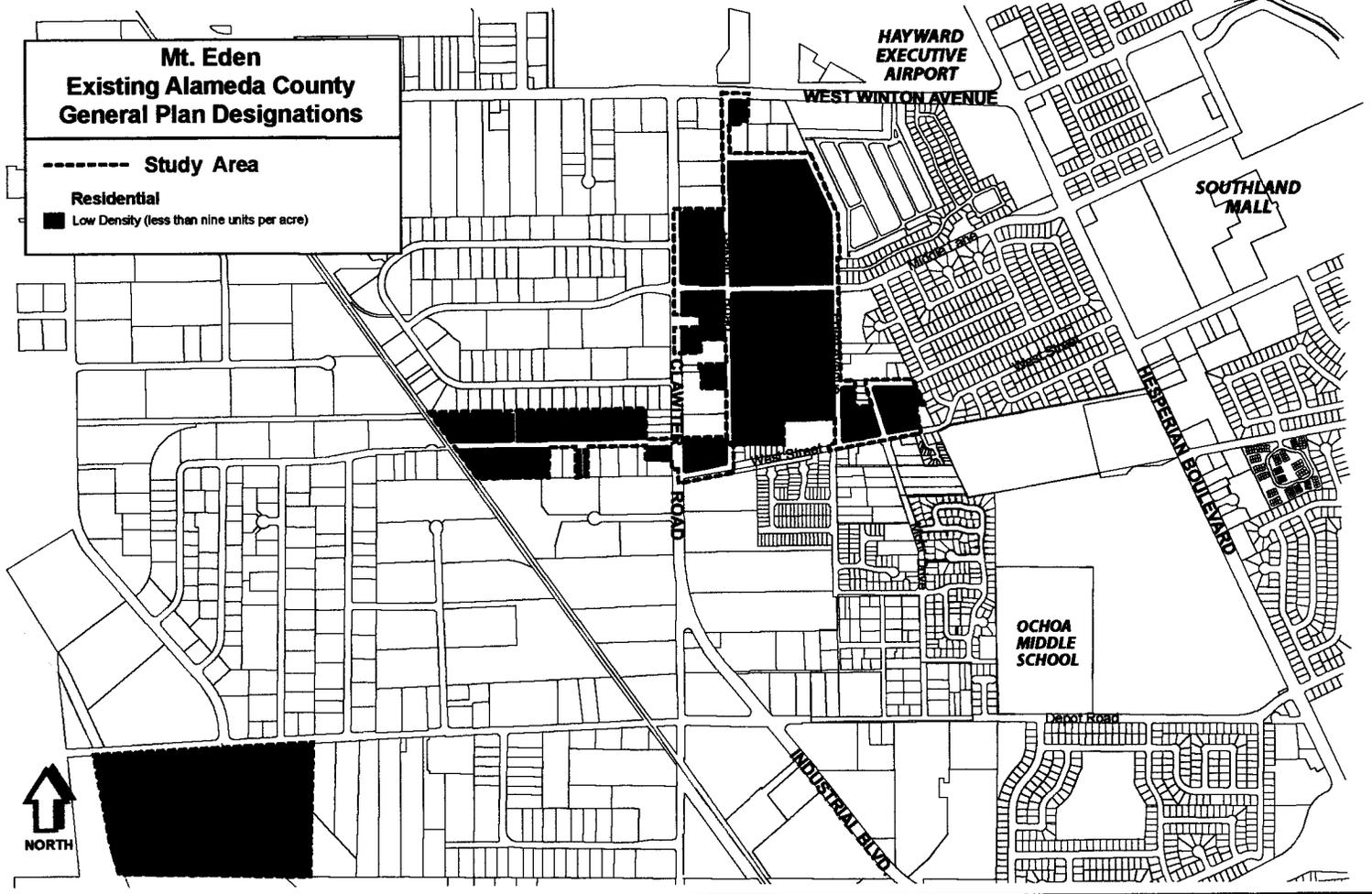
It is anticipated that infrastructure improvements in the Saklan Road island will be completed first, where new residential development is anticipated. It is projected that such improvements will be done at the time of the first new major development in the island, expected between 2005 and 2008. Improvements to the Dunn Road and Depot Road islands are anticipated sometime between 2008 and 2018.

**PROPOSED MT. EDEN ANNEXATION
SUMMARY OF MUNICIPAL SERVICE PROVIDERS**

SERVICES	EXISTING AGENCY	PROPOSED AGENCY
Police	Alameda County Sheriff	City of Hayward
Fire Protection	City of Hayward	City of Hayward
Water	City of Hayward (for 22 parcels) and the Mohrland Mutual Water Association (for 25 parcels)	City of Hayward and for properties with no new development, the Mohrland Mutual Water Association
Wastewater	City of Hayward (for 40 parcels)	City of Hayward
Storm Drainage	Alameda County Flood Control and Water Conservation District	City of Hayward and Alameda County Flood Control and Water Conservation District
Flood Control	Alameda County Flood Control And Water Conservation District	Alameda County Flood Control And Water Conservation District
Street Maintenance	Alameda County	City of Hayward
Street Lighting	Alameda County	City of Hayward
Solid Waste and Recycling Services	Waste Management, Inc. (via agreement with Alameda County)	Waste Management, Inc. (via franchise agreement with Hayward)
Library	Alameda County Library System	City of Hayward
Schools	Hayward Unified School District	Hayward Unified School District
Parks and Recreation	Hayward Area Recreation and Park District	Hayward Area Recreation and Park District
Transit	Bay Area Rapid Transit District; Alameda-Contra Costa Transit District	Bay Area Rapid Transit District; Alameda-Contra Costa Transit District
Electricity	Pacific Gas & Electric Company	Pacific Gas & Electric Company
Telephone	SBC and/or other telephone companies	SBC and/or other telephone companies
Cable Television	Alameda County (ComCast)	City of Hayward (ComCast)
General Governmental and Other Support Services	Alameda County	City of Hayward


 Mt. Eden
 Unincorporated Islands
 — Study Area Boundary

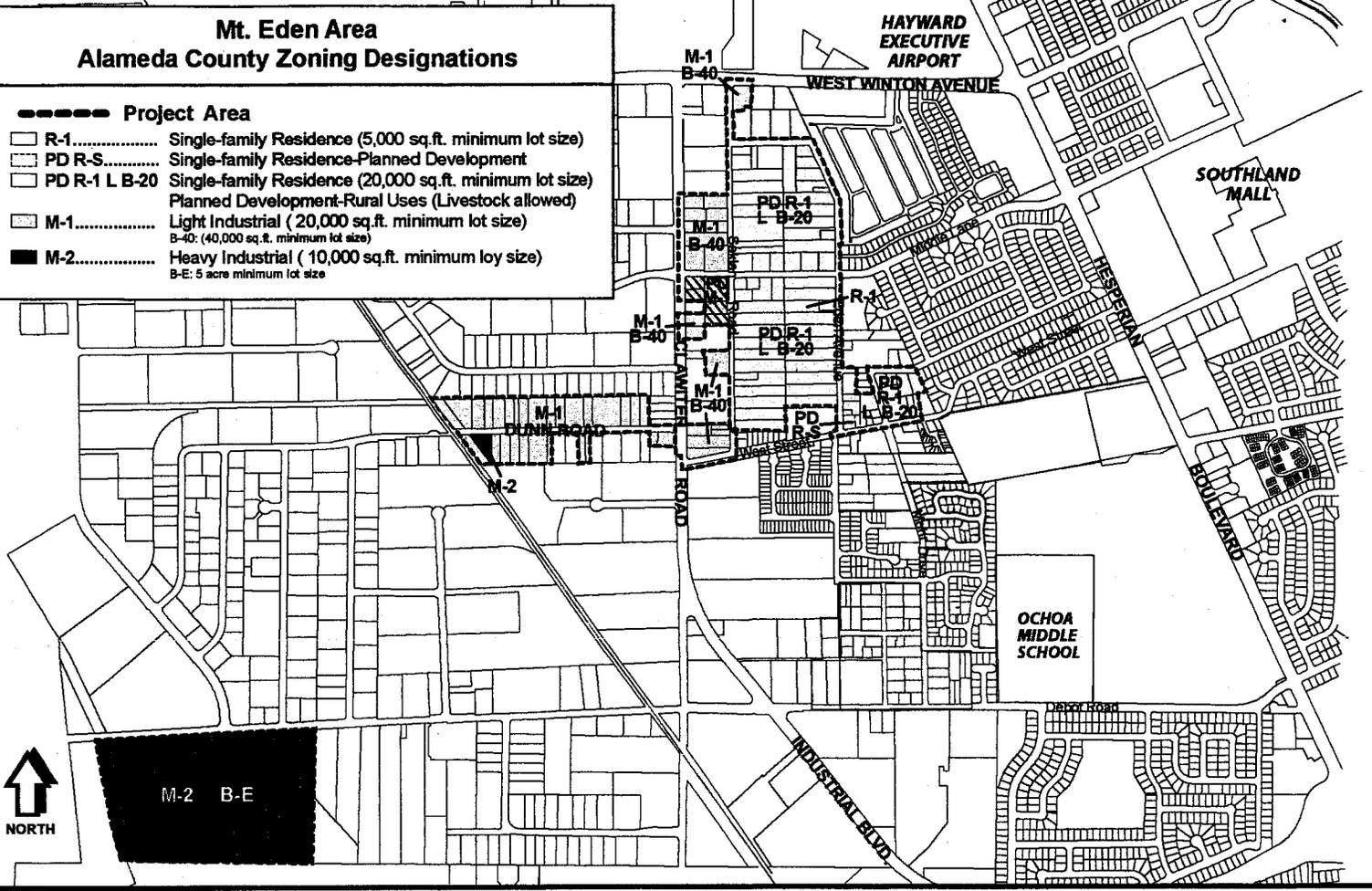




Mt. Eden Area Alameda County Zoning Designations

----- Project Area

- R-1..... Single-family Residence (5,000 sq.ft. minimum lot size)
- PD R-S..... Single-family Residence-Planned Development
- PD R-1 L B-20 Single-family Residence (20,000 sq.ft. minimum lot size)
- PD R-1 L B-20 Planned Development-Rural Uses (Livestock allowed)
- M-1..... Light Industrial (20,000 sq.ft. minimum lot size)
- B-40: (40,000 sq.ft. minimum lot size)
- M-2..... Heavy Industrial (10,000 sq.ft. minimum lot size)
- B-E: 5 acre minimum lot size



Mt. Eden Area City of Hayward Prezoning Designations

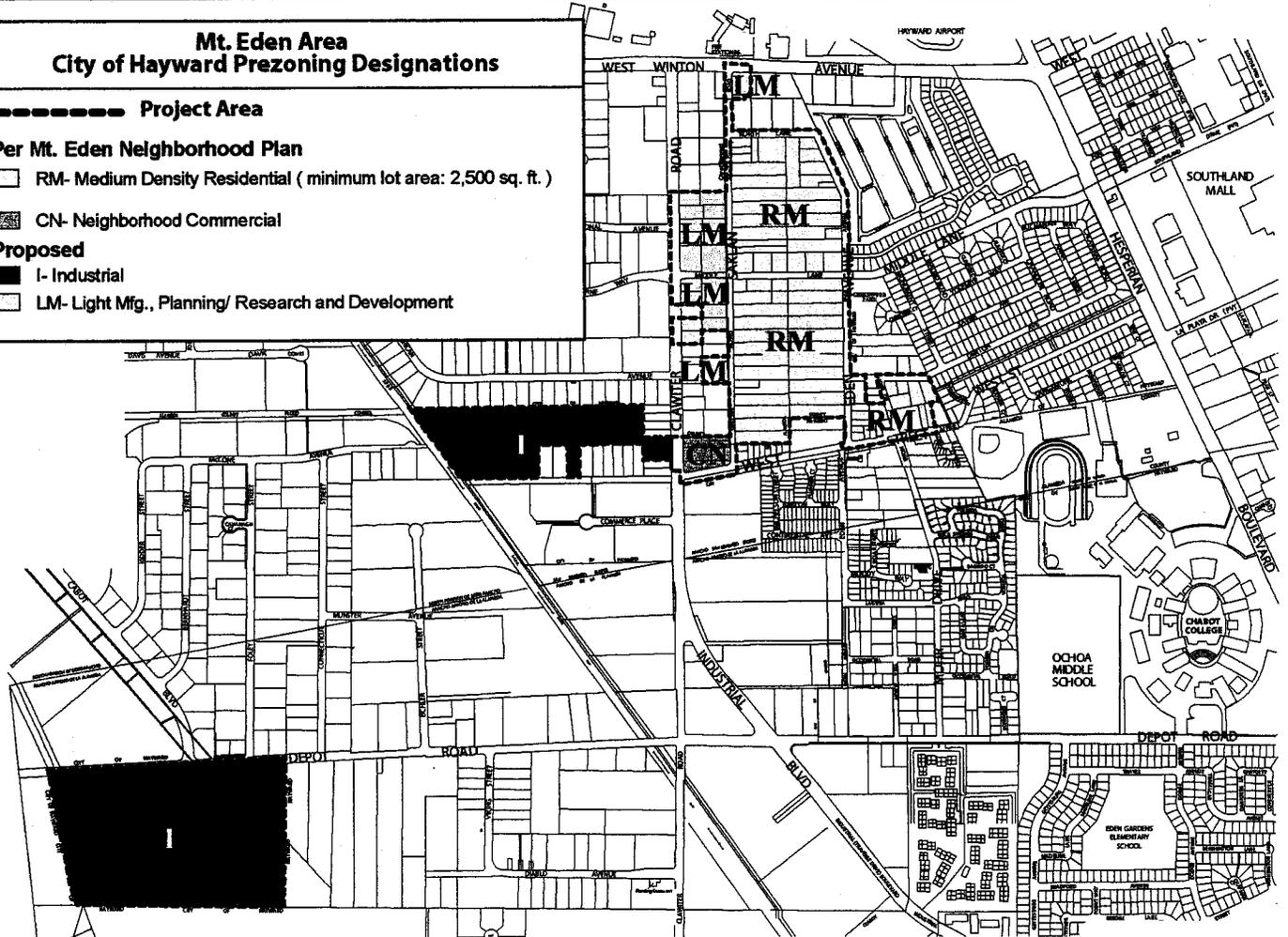
----- Project Area

Per Mt. Eden Neighborhood Plan

- RM- Medium Density Residential (minimum lot area: 2,500 sq. ft.)
- CN- Neighborhood Commercial

Proposed

- I- Industrial
- LM- Light Mfg., Planning/ Research and Development



Mt. Eden Annexation: Existing Land Use

APN	Street Address	Existing Land Use
Saklan Road Island Parcels		
441-0080-003	24495 MOHR DR	COMMERCIAL (NEC)
441-0080-010-01	24486 EDEN AVE	DUPLEX
441-0080-011-02	24388 EDEN AVE	DUPLEX
441-0080-019	1585 WEST ST	DUPLEX
441-0095-002	1430 NORTH LN	GARAGE
441-0003-010-02	1376 W WINTON AVE	INDUSTRIAL (NEC)
441-0087-027-02	23724 SAKLAN RD	INDUSTRIAL (NEC)
441-0087-028-02	23718 SAKLAN RD	INDUSTRIAL (NEC)
441-0090-001-02	23422 CLAWITER RD	INDUSTRIAL (NEC)
441-0090-022	23572 CLAWITER RD	INDUSTRIAL (NEC)
441-0092-001	23040 CLAWITER RD	INDUSTRIAL (NEC)
441-0092-002	23135 SAKLAN RD	INDUSTRIAL (NEC)
441-0092-003	23351 SAKLAN RD	INDUSTRIAL (NEC)
441-0092-004-02	23286 CLAWITER RD	INDUSTRIAL (NEC)
441-0092-005-02	23555 SAKLAN RD	INDUSTRIAL (NEC)
441-0092-007	23222 CLAWITER RD	INDUSTRIAL (NEC)
441-0092-008	23144 CLAWITER RD	INDUSTRIAL (NEC)
441-0092-009	23040 CLAWITER RD	INDUSTRIAL (NEC)
441-0095-001	1450 NORTH LN	INDUSTRIAL (NEC)
441-0090-002	SAKLAN RD	INDUSTRIAL LOT
441-0090-003	SAKLAN RD	INDUSTRIAL LOT
441-0090-004	23831 SAKLAN RD	INDUSTRIAL LOT
441-0090-010	SAKLAN RD	INDUSTRIAL LOT
441-0090-013	24170 CLAWITER RD	INDUSTRIAL LOT
441-0090-014	24018 CLAWITER RD	INDUSTRIAL LOT
441-0095-024-02	23240 SAKLAN RD	INDUSTRIAL LOT
441-0095-019-02	23572 SAKLAN RD	MOBILE HOME PP
441-0095-025-02	23132 SAKLAN RD	MOBILE HOME PP
441-0087-030-19	1560 MIDDLE LN	NURSING HOME
441-0080-006-01	WEST ST	PUBLIC (NEC)
441-0080-022	EDEN AVE	PUBLIC (NEC)
441-0087-003-01	EDEN AVE	PUBLIC (NEC)
441-0087-004-01	EDEN AVE	PUBLIC (NEC)
441-0087-011-01	EDEN AVE	PUBLIC (NEC)
441-0095-019-01	SAKLAN RD	PUBLIC (NEC)
441-0080-016	1516 DENTON AVE	RESIDENTIAL LOT
441-0087-006	EDEN AVE	RESIDENTIAL LOT
441-0087-019	24072 SAKLAN RD	RESIDENTIAL LOT
441-0095-011-02	23761 EDEN AVE	RESIDENTIAL LOT
441-0095-014	23993 EDEN AVE	RESIDENTIAL LOT
441-0095-016	1505 MIDDLE LN	RESIDENTIAL LOT
441-0095-022-02	SAKLAN RD	RESIDENTIAL LOT
441-0095-028-06	23016 SAKLAN RD	RESIDENTIAL LOT
441-0080-001-02	24308 EDEN AVE	SFR
441-0080-004	24519 MOHR DR	SFR
441-0080-005-02	24525 MOHR DR	SFR
441-0080-006-02	1643 WEST ST	SFR
441-0080-007-02	1655 WEST ST	SFR
441-0080-008	1677 WEST ST	SFR
441-0080-012	24364 EDEN AVE	SFR
441-0080-013	24408 MOHR DR	SFR
441-0080-014	1540 DENTON AVE	SFR
441-0080-015	1524 DENTON AVE	SFR
441-0080-018	1573 WEST ST	SFR

Mt. Eden Annexation: Existing Land Use

APN	Street Address		Existing Land Use
441-0080-020	24524	MOHR DR	SFR
441-0080-021	24488	MOHR DR	SFR
441-0080-027	1689	WEST ST	SFR
441-0080-028	24492	EDEN AVE	SFR
441-0087-001	1508	MIDDLE LN	SFR
441-0087-002	24013	EDEN AVE	SFR
441-0087-003-02	24019	EDEN AVE	SFR
441-0087-004-02	24021	EDEN AVE B	SFR
441-0087-005-02	24131	EDEN AVE	SFR
441-0087-007	24137	EDEN AVE	SFR
441-0087-008	24243	EDEN AVE	SFR
441-0087-009	24249	EDEN AVE	SFR
441-0087-010	24255	EDEN AVE	SFR
441-0087-011-02	24361	EDEN AVE	SFR
441-0087-012	24367	EDEN AVE	SFR
441-0087-017-02	24180	SAKLAN RD	SFR
441-0087-018	24178	SAKLAN RD	SFR
441-0087-020	24066	SAKLAN RD	SFR
441-0087-021	24060	SAKLAN RD	SFR
441-0087-022	23954	SAKLAN RD	SFR
441-0087-023	23948	SAKLAN RD	SFR
441-0087-024	23942	SAKLAN RD	SFR
441-0087-025	23836	SAKLAN RD	SFR
441-0087-026	23830	SAKLAN RD	SFR
441-0087-029-03	23612	SAKLAN RD	SFR
441-0087-030-10	1558	MIDDLE LN	SFR
441-0087-030-15	23606	SAKLAN RD	SFR
441-0087-030-17	1580	MIDDLE LN	SFR
441-0090-011	24191	SAKLAN RD	SFR
441-0090-012	24154	CLAWITER RD	SFR
441-0090-021	23636	CLAWITER RD	SFR
441-0090-024	23474	CLAWITER RD	SFR
441-0095-003	23305	EDEN AVE	SFR
441-0095-004	23413	EDEN AVE	SFR
441-0095-005	23521	EDEN AVE	SFR
441-0095-006	23529	EDEN AVE	SFR
441-0095-007	23537	EDEN AVE	SFR
441-0095-008	23645	EDEN AVE	SFR
441-0095-009	23653	EDEN AVE	SFR
441-0095-010	23761	EDEN AVE	SFR
441-0095-012-01	23877	EDEN AVE	SFR
441-0095-013	23885	EDEN AVE	SFR
441-0095-015	1505	MIDDLE LN	SFR
441-0095-017	1541	MIDDLE LN	SFR
441-0095-018	1561	MIDDLE LN	SFR
441-0095-020-02	23464	SAKLAN RD	SFR
441-0095-021-02	23356	SAKLAN RD	SFR
441-0095-023-02	23348	SAKLAN RD	SFR
441-0095-026	23128	SAKLAN RD	SFR
441-0095-027	23124	SAKLAN RD	SFR
441-0095-028-04	23016	SAKLAN RD	SFR
441-0095-029	23008	SAKLAN RD	SFR
441-0095-030	1470	NORTH LN	SFR
441-0090-007-04	23953	SAKLAN RD	WAREHOUSE
441-0092-006-04	23352	CLAWITER RD	WAREHOUSE

Mt. Eden Annexation: Existing Land Use

APN	Street Address	Existing Land Use	
Dunn Road Island Parcels			
439-0013-019	2474	DUNN RD	GARAGE
439-0013-016-02	2461	DUNN RD	INDUSTRIAL (NEC)
439-0013-017-02	2493	DUNN RD	INDUSTRIAL (NEC)
439-0013-020-02	2460	DUNN RD	INDUSTRIAL (NEC)
439-0013-025-01	2330	DUNN RD	INDUSTRIAL (NEC)
439-0016-022	2315	DUNN RD	INDUSTRIAL (NEC)
439-0016-018-02	2215	DUNN RD	INDUSTRIAL ACREAGE
439-0013-012	2377	DUNN RD	INDUSTRIAL LOT
439-0013-014-02	2417	DUNN RD	INDUSTRIAL LOT
439-0013-015	2433	DUNN RD	INDUSTRIAL LOT
439-0016-016-02	2181	DUNN RD	INDUSTRIAL LOT
439-0016-019-02	2227	DUNN RD	INDUSTRIAL LOT
439-0016-023	2316	DUNN RD	INDUSTRIAL LOT
439-0013-026		DUNN RD	PUBLIC (NEC)
439-0013-027		DUNN RD	PUBLIC (NEC)
439-0013-013	2393	DUNN RD	RESIDENTIAL LOT
439-0013-018-02	2515	DUNN RD	SFR
439-0013-021-02	2432	DUNN RD	SFR
439-0013-022	2416	DUNN RD	SFR
439-0013-023	2392	DUNN RD	SFR
439-0016-015	2139	DUNN RD	SFR
439-0016-020	2249	DUNN RD	SFR
439-0016-026	2242	DUNN RD	SFR
439-0016-027	2228	DUNN RD	SFR
439-0013-011-02	2347	DUNN RD	WAREHOUSE
439-0016-017-02	2155	DUNN RD	WAREHOUSE
439-0016-021-02	2283	DUNN RD	WAREHOUSE
439-0016-032-02	2130	DUNN RD	WAREHOUSE
439-0016-033-04	2116	DUNN RD	WAREHOUSE
Depot Road Island Parcels			
439-0070-004	3720	DEPOT RD	AUTO WRECKING
439-0070-005-01	3744	DEPOT RD	AUTO WRECKING
439-0070-005-02	3760	DEPOT RD	AUTO WRECKING
439-0070-006	3792	DEPOT RD	AUTO WRECKING
439-0070-008-04	3826	DEPOT RD	AUTO WRECKING
439-0070-012-02	3878	DEPOT RD	AUTO WRECKING
439-0070-013-01	3890	DEPOT RD	AUTO WRECKING
439-0070-014	3898	DEPOT RD	AUTO WRECKING
439-0070-008-06	3810	DEPOT RD	INDUSTRIAL (NEC)
439-0070-009	3862	DEPOT RD	INDUSTRIAL (NEC)
439-0070-008-05		DEPOT RD	PUBLIC (NEC)
439-0070-010-03		DEPOT RD	PUBLIC (NEC)
439-0070-003	3696	DEPOT RD	SFR

**DUE TO THE LENGTH OR COLOR
OF THE REFERENCED EXHIBIT,
IT HAS BEEN ATTACHED AS A
SEPARATE LINK.**

Preliminary Mt Eden Infrastructure Improvements

	Construction Cost Estimates								
	Street Improvements	Storm Drain	Sanitary Sewer	Water System	Street Light	Traffic Signal	SubTotal	50% Markup	Total
Saklan Island North Subtotal	\$997,981	\$201,876	\$98,435	\$287,690	\$52,500	\$7,000	\$1,645,482	\$822,741	\$2,468,223
Saklan Island South Subtotal	\$1,959,412	\$433,340	\$103,296	\$436,320	\$84,750	\$30,000	\$3,047,118	\$1,523,559	\$4,570,678
Clawiter Road Box Culvert		\$177,020					\$177,020	\$88,510	\$266,000
SAKLAN ISLAND TOTAL	\$2,957,394	\$812,236	\$201,731	\$724,010	\$137,250	\$37,000	\$4,869,621	\$2,434,810	\$7,304,901
Dunn Island Subtotal	\$615,893	\$326,321	\$48,852	\$149,920	\$24,000	\$0	\$1,164,986	\$582,493	\$1,747,479
Dunn Road Water Line				\$102,000			\$102,000	\$51,000	\$153,000
DUNN ISLAND TOTAL	\$615,893	\$326,321	\$48,852	\$251,920	\$24,000		\$1,266,986	\$633,493	\$1,900,479
DEPOT ISLAND TOTAL	\$141,534	\$42,500	\$6,536	\$19,000	\$0	\$0	\$209,570	\$104,785	\$314,355
TOTAL COST ESTIMATES	\$3,714,821	\$1,181,057	\$257,119	\$994,930	\$161,250	\$37,000	\$6,346,177	\$3,173,088	\$9,519,735

Note: Construction cost estimates are based on updated takeoff from 1993 improvement plans. 50% markup is to account for costs for engineering, survey, inspection, right-of-way acquisition, etc.

**DUE TO THE LENGTH OR COLOR
OF THE REFERENCED EXHIBIT,
IT HAS BEEN ATTACHED AS A
SEPARATE LINK.**



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, September 30, 2004, 7:30 p.m.
777 B Street, Hayward, CA 94541**

MEETING

The regular meeting of the Hayward Planning Commission was called to order at 7:30 p.m., by Chair Sacks followed by the Pledge of Allegiance.

ROLL CALL

Present: COMMISSIONERS: McKillop, Bogue, Thnay, Peixoto, Zermeño
CHAIRPERSON: Sacks
Absent: COMMISSIONER: Thnay

Staff Members Present: Anderly, Conneely, Rizk, Macias

General Public Present: Approximately 25

PUBLIC COMMENTS

Jane Bjorner, resident of Hayward for 25 years who has lived in the Shapell development in the Mt. Eden area, spoke about Middle Lane. She stated the street has many pot holes and they have been patched over and over, but the repair does not last long. She further complained about transients in Greenwood Park directly behind her home. The transients scare the children away, they are drinking and smoking pot, and they sit in the park for hours. She has called police several times. She would like staff to contact her to resolve some of these issues once and for all.

PUBLIC HEARINGS

1. **I. Prezone (PL-2004-0313)** – Consideration of Prezoning and Related Final Environmental Impact Report Associated with the Proposed Mt. Eden Annexation
- II. Text Amendment (PL-2004-0338)** - Consideration of Amendments to the Light Manufacturing, Planning/Research and Development District (LM) Provisions and Related Negative Declaration Associated with the Mt. Eden Annexation Study

Staff report submitted by Associate Planner Rizk, dated September 30, 2004, was filed

Associate Planner Rizk presented the staff report. He stated that the City has conducted a study for the last several months resulting in several documents, including a fiscal impact analysis, an infrastructure cost assessment, and an environmental impact report, including a local intersection traffic impact analysis. He also indicated that a Negative Declaration has been prepared that indicates adoption of proposed changes to the LM District provisions would not create significant environmental impacts.

Mr. Rizk indicated that the islands proposed to be annexed are in the County's Redevelopment

Project Area, which was formed in 2000, and explained that this means additional property tax revenues associated with new development in these areas would go to the redevelopment fund to be used specifically for infrastructure improvements in the five islands. He stated that there were no plans to remove the islands from the Redevelopment Project Area, even if annexation were to occur.

Mr. Rizk indicated that the costs for the infrastructure improvement are estimated at around \$9.5 million for the Saklan Road, Dunn Road, and Depot Road islands, with tax increment revenue funds anticipated to be used to pay for those improvements.

Mr. Rizk continued by indicating that because it appears that tax increment revenue funds would be available to pay for those improvements; many residents that were previously opposed to annexation were now willing to consider it. He said the City and County were now working together to pursue annexation of the other two islands in a later phase of annexation, which will require separate analysis and environmental review, anticipated for next year.

Mr. Rizk summarized the items requiring action by the Planning Commission and noted that the Mt. Eden Annexation was scheduled for a public hearing before the City Council on October 12, that the annexation package to LAFCO was expected to be submitted in November, with the LAFCO hearing anticipated in early 2005. He described the planned upgrades to the public water delivery system, the storm drain system, and the public sewer system.

Commissioner Peixoto asked for further information regarding the tax increment financing, impact on existing use permits, and fire and police protection services. Associate Planner Rizk noted that it was projected that there would be sufficient tax increment revenues to pay for the improvements, that current uses operating via County conditional use permits would be allowed to continue for the life of those permits, and that fire protection services were provided by the City, with annual reimbursements from the County. He concluded his response by indicating that police services were primarily provided by the County Sheriff, with Hayward Police also providing emergency response services.

Commissioner Zermefio inquired about the timeline for the second phase and more information regarding the determination of the number of additional dwelling units, and time allowed for existing residents to hook up to sewer lines. Associate Planner Rizk replied there is no specific timeline, but it is anticipated to occur throughout the following year. Planner Manager Anderly added that the City needs to identify funding for the second phase of annexation, including for environmental review that will need to be done. Mr. Rizk explained the number of units was determined by applying a mid-level density for the General Plan Land Use designation of medium density.

Chair Sacks commented on the height limit for fences in the light manufacturing district, noting that there currently is no limit and the proposed limit is 8 feet.

Chair Sacks opened the public hearing at 8:06 p.m.

Jim Lovell stated that he has received conflicting information on how the transformation will occur from the Mohrland Mutual Water Association to City water. He noted that the association stands to



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lose one-third of its business which will create a burden on the rest of the users of Mohrland, who will have to assume greater costs. He asked that he be provided clear, concise information regarding the schedule of changes.

Sandra Lovell asked for clarification regarding the frequency and type of inspections of septic tanks, as they can be very costly.

Allen Bertillion gave a history of the past attempts related to annexation of these areas. He stated that Supervisor Steele helped explain incremental taxation and that it means that the burden is not on the homeowner to pay for the work. He stated that the Mt. Eden Annexation EIR overlooked the Mohrland Water Association which was formed in 1932. He suggested a phase-in transition for the water system so there can be an alternate course. He further commented on the costs for testing septic systems, which he said was about \$600.

Bobby Pratt, who indicated she has lived in Hayward 44 years, commented on the beauty of the semi-rural area and how it hurts her to see it change. She said many of the residents are seniors who want the area to stay the same.

Juanita Gutierrez, who served as the chairperson of the City's Mt. Eden Task Force, asked that the task force recommendations be implemented prior to making additional changes. She indicated she disagreed with the traffic impact report stating that more traffic impacts would not be created as new homes will be built and families with several drivers will be added. She stated she has consistently fought for improvements to the area, and requested more stop signs be added and improvements to Greenwood Park be completed, including restroom facilities.

Robert Pratt spoke in opposition of only partial annexation. He also commented on the need for improvements to Greenwood Park.

Zachary Bode asked if research and development would be allowed in the Depot Road Island. Associate Planner Rizk confirmed that the proposed Industrial District rezoning designation allowed for heavier, more traditional industrial uses, as well as research and development uses, and that he did not anticipate that a special design or overlay district would be necessary.

Chair Sacks closed the public hearing at 8:28 p.m.

Commissioner Zermeño asked if it would be possible for staff to provide the straight forward information requested by Mr. Lovell.

Commissioner Bogue commented that he had participated in some of the annexation meetings and understood the septic system requirements and that the 10-year hook-up time period made sense. He indicated that currently, if the County standard is not met, upon failure, owners must connect to the City. He noted that many of those present have attended the other community meetings and they deserve to have the water and septic system issues addressed prior to the October 12 Council

meeting.

Associate Planner Rizk stated staff's current recommendation associated with changes to the City's sewer connection provisions is that owners would need to submit annual verification via an inspection that their septic systems were functioning properly and the staff's proposal was not intended to modify how the County conducts such inspections.

Commissioner McKillop agreed with Commissioner Bogue and she thanked everyone for their perseverance in the matter. She urged the residents of the area to continue to participate in meetings and, in particular, to attend the October 12 City Council meeting.

Commissioner Peixoto asked if there was anything that could be done to mitigate the losses to the Mohrland Water Association. Associate Planner Rizk noted that annexation does not mean that connection to City water would be required and that staff would try to clarify the issues as requested.

Planning Manager Anderly added that Mohrland has known for a long time that it would be phased out.

Chair Sacks agreed with Mr. Lovell that it was important to have clear and concise information.

Commissioner Zermefio moved, seconded by Commissioner McKillop, that the Planning Commission recommends to the City Council certification of the Environmental Impact Report associated with the proposed Mt. Eden annexation and rezoning as being prepared in accordance with the California Environmental Quality Act and City implementing guidelines, adoption of the Statement of Overriding Considerations, approval of the Mitigation Monitoring and Reporting Program, approval of amendments to the Zoning Ordinance (PL-2004-0313) that would change/establish rezoning designations for certain properties within unincorporated areas that are proposed for annexation, based on the findings attached to the agenda report, adoption of the Negative Declaration associated with changes to the "LM" District provisions (PL-2004-0338) and approval of a text amendment (PL-2004-0338) that would allow storage-related facilities as conditional uses, modify development standards and establish design and performance standard for uses in the Light Manufacturing, Planning/Research and Development (LM) District, based on findings attached to the agenda report, and the Planning Commission further recommends that water and septic system matters be resolved as much as possible before the October 12 City Council meeting.

Commissioner Peixoto questioned the need to add the latter portion of the motion.

Commissioner Bogue spoke in favor of adding the provision and agreed that he would like to see these issues addressed before the Council hearing.

Chair Sacks said she also agreed with the additional provision and supported the motion.



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The motion carried by the following vote:

AYES: COMMISSIONERS McKillop, Bogue, Peixoto, and Zermeño
CHAIRPERSON Sacks
NOES: None
ABSENT: Thnay (One Vacancy)
ABSTAIN: None

ADDITIONAL MATTERS

Planning Manager Anderly stated that based on provisions in the City's sign ordinance, the Planning Commission's decision regarding the Super 8 Motel sign made at the September 23 meeting is final and cannot be appealed to Council.

APPROVAL OF MINUTES

None.

ADJOURNMENT

The meeting was adjourned by Chair Sacks at 8:47 p.m.

APPROVED:

Julie McKillop, Secretary
Planning Commission

ATTEST:

Connie G. Macias
Deputy City Clerk



**CITY OF HAYWARD
AGENDA REPORT**

AGENDA DATE 09/30/04

AGENDA ITEM 1

WORK SESSION ITEM _____

TO: Planning Commission

FROM: David Rizk, Associate Planner

SUBJECT: I. **Prezone (PL-2004-0313) - Consideration of Prezoning and Related Final Environmental Impact Report Associated with the Proposed Mt. Eden Annexation**
II. **Text Amendment (PL-2004-0338) - Consideration of Amendments to the Light Manufacturing, Planning/Research and Development District (LM) Provisions and a Related Negative Declaration Associated with the Mt. Eden Annexation Study**

RECOMMENDATION:

That the Planning Commission recommend to the City Council:

1. Certification of the Environmental Impact Report associated with the proposed Mt. Eden annexation and prezoning as being prepared in accordance with the California Environmental Quality Act and City implementing guidelines; adoption of the Statement of Overriding Considerations; and approval of the Mitigation Monitoring and Reporting Program.
2. Approval of amendments to the Zoning Ordinance (PL-2004-0313) that would change/establish prezoning designations for certain properties within unincorporated areas that are proposed for annexation, based on the findings attached hereto.
3. Adoption of the Negative Declaration associated with changes to the "LM" District provisions (PL-2004-0338) and approval of a text amendment (PL-2004-0338) that would allow storage-related facilities as conditional uses, modify development standards and establish design and performance standards for uses in the Light Manufacturing, Planning/Research and Development (LM) District, based on findings attached hereto.

DISCUSSION:

Background

The Mt. Eden area includes five unincorporated "islands" that are within the jurisdiction of Alameda County, which are completely surrounded by the City of Hayward (see Attachment A). Approximately twelve years ago, Alameda County spearheaded efforts to have these unincorporated islands in the Mt. Eden area annexed into the City of Hayward. Such efforts ultimately failed, however, and the County eventually withdrew its application. Pursuit of annexation is again being considered because State law encourages the logical formation and determination of local agency boundaries and because there are a number of properties in the

EXHIBIT H

area, particularly in the north, that have been purchased by owners who have expressed an interest in having their properties annexed into the City of Hayward and developed.

To determine the desirability and feasibility of annexing unincorporated lands in the Mt. Eden area into the City of Hayward, the City initiated the Mt. Eden Annexation Study in the summer of 2003. That study has included various focused analyses and entailed four community meetings held in the Mt. Eden area, beginning in October of last year. The most recent community meeting was held on September 15, during which staff summarized the results of the study and information associated with the proposed annexation.

Project Description

The project includes annexation of the study area into Hayward, associated street and utility system improvements and related potential future residential and non-residential development.

Study area

The project/study area involves three unincorporated "islands" that are completely surrounded by the City located in the westerly portion of Hayward, generally west of Hesperian Boulevard between West Winton Avenue and State Highway 92. The three islands include:

- **Saklan Road Island**, the largest of the three islands with 62 acres of land and 110 parcels of record, containing a mix of detached single-family residences, undeveloped residential lots, warehouses and industrial operations,
- **Depot Road Island**, consisting of 41 acres of land with 13 parcels, containing several automobile wrecking/dismantling yards and
- **Dunn Road Island**, comprised of 15 acres and 29 parcels that have been developed with a mix of industrial and storage uses, along with a few detached single-family residences.

The two other unincorporated islands in the Mt. Eden area were initially considered for inclusion in the study area. However, as summarized for the City Council during a November 2003 work session, those two islands were dropped from the study area, due mainly to opposition to annexation expressed by residents in those areas at the earlier community meetings.

Recent discussions with Supervisor Gail Steele, County staff and some residents in those islands who have now indicated support for annexation have resulted in the County and City working together to pursue annexation of those islands in a subsequent phase, after adequate study and analysis is completed. All five islands are within Hayward's Sphere of Influence and Alameda County's Eden Area Redevelopment Project area. There are no plans to deannex the lands from the County Redevelopment Project Area, even if annexation of the land into the City is approved. Attachment A shows the three islands that are currently proposed for annexation in Phase I (Study Area) and the two other islands proposed for a Phase II annexation. The subsequent discussion and recommendations in this staff report and the related final Environmental Impact Report pertain to the three islands in the current project/study area (Phase I).

Street and Utility Services

No new public roads are proposed as part of the project, although certain public roadways would be required to be widened and improved to meet City standards. Also, public utility systems would be required to be upgraded to serve any new development within the project area.

Funding mechanisms that have been analyzed as part of the study include tax increment financing, which could be used to help pay for improvements and/or to reimburse developers that fund improvements outside their development tracts. Tax increment financing is a funding source that was not available twelve years ago when the City and County tried to annex the lands, since the County Redevelopment Project Area had not been formed at that time. Utilizing such revenues to help fund public infrastructure improvements has persuaded some residents to consider supporting annexation.

Prezoning

Lands that are proposed for annexation are required by State law to be prezoned. The Saklan Road island was prezoned by the City of Hayward in 1990 as part of the Mt. Eden Neighborhood Plan. The Dunn Road and Depot Road islands were not part of the Mt. Eden Neighborhood Plan Area and were not prezoned at that time. The following prezoning actions are recommended:

- Prezone the Depot Road and Dunn Road islands to the Industrial (I) zoning district.
- Change the prezoning designation for parcels generally located west of Saklan Road, east of Clawiter Road and north of West Lane from Limited Industrial (LI), which was a recommended designation in the Neighborhood Plan for a district that was never created, to the Light Manufacturing, Planning/Research and Development (LM) Zoning District. (See later discussion regarding proposed changes to the LM District provisions.)

Remaining prezoning designations established as part of the Mt. Eden Neighborhood Plan are not recommended to change, which include Medium Density Residential (RM, with a minimum lot area of 2,500 square feet per dwelling unit) for properties located east of Saklan Road and Neighborhood Commercial (CN) for five parcels located between Clawiter Road and Saklan Road just north of West Street. All proposed prezoning designations are consistent with existing General Plan land use designations, which are not proposed to be changed. Attachment B includes a map showing the proposed prezoning designations. Attachment C is a list of each property in the study area, with associated prezoning designations identified.

The proposed annexation and associated public infrastructure improvements and future development would result in improved fire suppression capabilities, police protection, storm drain capacity and roadways in the area. As noted in the associated environmental impact report, proposed infrastructure improvements, including roadway improvements and widening, extension of public water and sewer lines and upgrades to the existing storm drainage network, would be compliant with City standards and sufficient to serve potential future development.

Also, the Mt. Eden Neighborhood Plan contains policies that encourage light industrial zoning in the western portion of the Saklan Road island and industrial zoning to the west of the Neighborhood Plan area (west of Clawiter Road). Additionally, the purpose of the Industrial zoning district is consistent with the intended uses for the Dunn Road and Depot Road islands, and with surrounding uses. The purpose of the LM zoning district is consistent with the intended uses for the western portion of the Saklan Road island and with the policies of the Mt. Eden Neighborhood Plan.

The Depot Road and Dunn Road islands are completely surrounded by properties in the City that are within the Industrial zoning district. The uses permitted in the proposed LM zoning district would help provide a buffer between the more impacting industrial uses and associated traffic

along Clawiter Road and the residential areas along the western side of Saklan Road. An Industrial zoning district designation for such area would allow more impacting uses to develop, which would negatively affect the residential neighborhood to the east.

If annexation is approved, staff anticipates that zoning for the entire area between Saklan Road and Clawiter Road, including those properties currently in the City, will be assessed in the future in order to achieve a consistent designation throughout. Parcels in the City in this area are currently in the Industrial Zoning District (I).

Future development potential

Should annexation be approved and infrastructure improvements completed, it is anticipated that new development would occur. Based on achieving approximately a mid-range density of the existing Medium Density General Plan land use designation, it is estimated that 475 new dwellings could be constructed within the Saklan Road area. This would be in addition to the approximate 100 dwellings now in place.

Based upon existing General Plan land use designations and floor area ratios reflective of existing development throughout the City, the annexation area is also anticipated to ultimately accommodate nearly 536,000 square feet of research and development and/or business park use in the Depot Road island, nearly 229,000 square feet of light industrial floor space in the Dunn Road island, over 160,000 square feet of light industrial space in the western portion of the Saklan Road island and over 28,000 square feet of neighborhood commercial uses in the southwest corner of the Saklan Road island.

Using those assumptions for a future development scenario, a fiscal impact analysis was conducted as part of the study that indicated that impacts to the City's General Fund would be slightly positive, and annual net tax increment funds from such development could be sufficient to fund public infrastructure improvements in the study area. A preliminary analysis also shows that tax increment funds could be sufficient to fund public infrastructure improvements in the two islands not included in the study area.

Proposed Text Amendment

The Light Manufacturing, Planning/Research and Development (LM) District was formed in 1998 as part of the South of Route 92 Specific Plan process. The only areas in the City where this designation exists is the Webber and Oliver East properties, which are located south of Industrial Boulevard and west of Hesperian Boulevard, within the South of Route 92 Specific Plan project area. An application is currently being processed by City staff for a proposed residential development project for the Oliver East property, which involves a General Plan Amendment (from Industrial Corridor to Medium Density Residential) and a Zoning Change (from LM to Planned Development (PD)).

The listed uses and development standards contained in the LM District provisions reflect the City's desire "to provide for limited manufacturing and other light industrial uses within the Industrial Corridor which are compatible with business parks and adjacent residential areas." Specifically, only light manufacturing or similar uses are allowed in the LM District. Also, the development standards, which require a minimum 50-foot front yard setback and 25-foot side and rear yard setbacks, reflect a business park or light industrial park setting that was envisioned in the South of Route 92 Plan area.

To help with transitional impacts to certain business owners and operators as a result of annexation, staff is recommending amendments to the "LM" District provisions (see Attachment H). The most substantial changes would allow certain uses as conditional uses in the "LM" District. Specifically, since most of parcels in the Saklan Road island that are proposed to be rezoned to "LM" contain storage-related facilities, staff is recommending that open storage, recreational vehicle storage yards and public storage facilities be allowed as conditional uses in the "LM" district. The Industrial District, which is the zoning designation for properties in the City in the immediate area, allows such uses as conditional uses. The recommended amendments would also entail changes to the development standards, to be more reflective of the Mt. Eden area, and creation of design and performance standards for areas outside the South of Route 92 Specific Plan area, which currently do not exist. Those standards utilize design and performance criteria found in the Industrial (I) District.

The proposed text amendment would help implement the annexation by minimizing fiscal impacts on certain businesses currently operating legally with County conditional use permits located immediately west of the residential neighborhoods in Mt. Eden area, allowing them as conditional uses. The proposed text amendment would be in conformance with the Mt. Eden Neighborhood Plan policies that encourage low-impacting light industrial uses in the western portion of the Saklan Road island and with the purpose of the LM zoning district, in that storage-related uses, with implementation of the required design guidelines, are typically low-impacting in that they typically generate low traffic and do not typically have odors or noise associated with them.

Also, the uses are served by existing roads. Proposed infrastructure improvements, including roadway improvements and widening, extension of public water and sewer lines and upgrades to the existing storm drainage network, would improve infrastructure in the area to better serve future uses.

Attachment J lists the ten uses that are operating under County conditional use permits, nine of which are storage-related uses and all of which have use permits that expire within the next four years. If annexation occurs, the City will recognize the uses operating legally with those use permits and allow them to continue until their use permits expire.

Delayed Sewer Connections

To further reduce financial impacts to owners in the Mt. Eden annexation area, staff is recommending that a special provision be adopted regarding sewer connections that would only become effective if annexation occurs. The provision would amend the section of the Public Utilities Chapter of the City's Municipal Code that requires connection to the public sewer system within 90 days if a property is located within 200 feet of such system. Specifically, the Code amendment would allow a property that is annexed in the Mt. Eden area and served by a private septic system up to 10 years to connect to the public sewer system, provided evidence is submitted annually that verifies that the septic system functions properly and provided no intensification of use on the property occurs, including addition of facilities or other changes that increase sewer discharge. Of course, properties that connect to the public sewer system will be required to pay a sewer connection fee (\$4,400 for single-family residences, as of

October, 2004) and to pay for the costs to install a sewage pipe (lateral) from a building to the public sewer main in the street, which can cost several thousand dollars.

Such ordinance is not subject to Planning Commission review and will be presented to the City Council during the public hearing associated with the Mt. Eden Annexation, scheduled for October 12.

Environmental Review

Environmental Impact Report

The public comment period for the Mt. Eden Annexation Project Draft Environmental Impact Report (DEIR), during which any interested party could submit comments, ran from May 5 to June 21, 2004. The DEIR was reviewed with the City Council during a work session on May 18, 2004 and with the Planning Commission during a public hearing on June 10, 2004. The Final Environmental Impact Report (FEIR), which contains written responses to comments on the DEIR and revisions where appropriate, was previously distributed to the Planning Commissioners. Notice of the availability of the FEIR has been provided to all property owners and residents in and within 300 feet of the study area, individuals on the mailing list of interested parties and public agencies that commented on the DEIR. As required by law, copies of the FEIR were distributed to public agencies that commented on the DEIR.

The FEIR includes the revised Summary Table of Environmental Impacts and Mitigations. The FEIR and the DEIR indicate that all but one of the significant impacts can be mitigated to a less-than-significant level. The one exception is cumulative traffic impacts associated with regional traffic and roadway congestion, which is a significant and unavoidable impact that requires a statement of overriding considerations to be adopted (see Attachment E), as was the case for the General Plan Update EIR adopted in 2002. One change to the DEIR relates to potential traffic impacts to the Hesperian Boulevard/West Winton Avenue intersection. The DEIR indicates implementation of the planned Industrial Assessment District (IAD) improvements would ensure impacts to that intersection would be less than significant. Based on concerns expressed about the timing and feasibility of those improvements, the FEIR identifies a new interim measure that would entail improvements to that intersection, to ensure levels of service are acceptable until the IAD improvements are completed. Also, the FEIR indicates that after further review, noise impacts associated with touch-and-go aircraft flights from the Hayward Executive Airport would not be significant, since the proposed annexation area lies outside the 65 dBA (Ldn) noise contour line. The FEIR has deleted that potential impact, along with the associated mitigation measure requiring aviation easements to be recorded. The FEIR indicates the City would require such easements in the future, at the time of specific development proposals.

The proposed Mitigation Monitoring and Reporting Program is included as Attachment F, which identifies when mitigation measures should be implemented, the parties responsible for ensuring implementation occurs and who is responsible for monitoring such implementation.

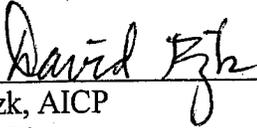
Negative Declaration

A Negative Declaration has been prepared for the proposed text amendment to the LM District provisions, and is included as Attachment G. The Negative Declaration concludes that no significant impacts would occur as a result of the proposed text amendment.

PUBLIC NOTICES

Notice of this public hearing was published in *The Daily Review* on September 10, 2004, mailed to all property owners within the study area, all property owners and residents within 300 feet of the study area and various public agencies, and posted at the City Clerk bulletin board, the City lobby book and the two Hayward libraries on September 8, 2004. No responses to those notices had been received at the time this report was finalized.

Prepared by:



David Rizk, AICP
Associate Planner

Approved by:



Dyana Anderly, AICP
Planning Manager

Attachments:

- Attachment A. Map of Mt. Eden Annexation/Study Area
- Attachment B. Map of Proposed Prezonings
- Attachment C. List of Parcels by Assessor's Parcel Number and Street Address with Proposed Prezoning Designations Identified
- Attachment D. Findings in Support of Proposed Prezonings
- Attachment E. Statement of Overriding Considerations
- Attachment F. Mitigation Monitoring and Reporting Program
- Attachment G. Negative Declaration and Environmental Checklist related to Proposed Text Amendment for the "LM" District Provisions
- Attachment H. Proposed Text Changes regarding the "LM" District Provisions
- Attachment I. Findings in Support of Proposed Text Changes regarding the "LM" District Provisions
- Attachment J. List of Parcels Operating with County Conditional Use Permits that are proposed to be Prezoned to "LM."

Note: Copies of the Draft EIR and Final EIR were previously distributed to the Planning Commissioners. Please bring your copies to the meeting.

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**DEPARTMENT OF
COMMUNITY AND ECONOMIC DEVELOPMENT
Planning Division**

NEGATIVE DECLARATION

Notice is hereby given that the City of Hayward finds that no significant effect on the environment as prescribed by the California Environmental Quality Act of 1970, as amended will occur for the following proposed project:

I. PROJECT DESCRIPTION:

Text Change Application No. 04-0338

The proposed project involves amendments to the Light Manufacturing, Planning/Research and Development (LM) District provisions of the Hayward Zoning Ordinance that would allow major or minor open storage, recreational vehicle storage yards and public storage facilities as conditional uses and would establish new development, design and performance standards for that zoning district (see attached).

II. FINDING PROJECT WILL NOT SIGNIFICANTLY AFFECT ENVIRONMENT:

The proposed project will have no significant effect on the area's resources, cumulative or otherwise.

III. FINDINGS SUPPORTING DECLARATION:

1. The project has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and an Initial Study Environmental Checklist Form (attached) has been completed for the proposed project. The Initial Study has determined that the proposed project could not result in significant effects on the environment.
2. The proposed amendments would help reduce visual and other aesthetic impacts in that they would establish new design and performance standards for uses in the LM zoning district, which do not currently exist for areas outside the South of Route 92 Specific Plan area.
3. Although the proposed amendments would establish storage-related uses as new conditional uses, they would not allow such uses without discretionary review by the City, in accordance with the conditional use permit provisions of the Zoning Ordinance. Such provisions seek, in part, "to assure said uses occur in maximum harmony with the area and in accordance with official City policies" and require that a finding be made that, "The proposed use will not be detrimental to the public health, safety, or general welfare."

IV. PERSON WHO PREPARED INITIAL STUDY: David Rizk, AICP, Associate Planner, City of Hayward

Dated: September 7, 2004

V. COPY OF INITIAL STUDY IS ATTACHED

For additional information, please contact David Rizk at the City of Hayward Planning Division, 777 B Street, Hayward, CA 94541-5007 or telephone (510) 583-4004

DISTRIBUTION/POSTING

- Provide copies to project applicants and all organizations and individuals requesting it in writing.
- Reference in all public hearing notices to be distributed 20 days in advance of initial public hearing and/or published once in Daily Review 20 days prior to hearing.
- Project file.
- Post immediately upon receipt at the City Clerk's Office, the Main City Hall bulletin board, and in all City library branches, and do not remove until the date after the public hearing.



Environmental Checklist Form

1. Project title:
Text Change Application No. 04-0338 - Amendments to the Light Manufacturing, Planning/Research and Development (LM) District provisions of the Hayward Zoning Ordinance.
2. Lead agency name and address:
City of Hayward
777 B Street
Hayward, CA 94541
3. Contact person and phone number and e-mail address:
David Rizk, AICP, (510) 583-4004, david.rizk@hayward-ca.gov
4. Project location:
Citywide
5. Project sponsor's name and address:
City of Hayward Planning Director
777 B Street
Hayward, CA 94541
6. General Plan:
Industrial Corridor
7. Zoning:
Light Manufacturing,
Planning/Research and
Development (LM)
8. Description of project:
Amendments to the Light Manufacturing, Planning/Research and Development (LM) District provisions of the Hayward Zoning Ordinance that would allow major or minor open storage, recreational vehicle storage yards and public storage facilities as conditional uses and would establish new development, design and performance standards for that zoning district (see attached).
9. Surrounding land uses and setting:
Mt. Eden Area: Industrial uses to the north, south and west; single-family residential and industrial uses to the east.
South of Route 92 Area: Residential uses to south, industrial uses to the northwest, open space to the southwest, undeveloped business park lands to the north and a sports complex to the south.
10. Other public agencies whose approval is required:
None.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- | | | |
|--|---|---|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture Resources | <input type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Geology /Soils |
| <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Hydrology / Water Quality | <input type="checkbox"/> Land Use / Planning |
| <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Noise | <input type="checkbox"/> Population / Housing |
| <input type="checkbox"/> Public Services | <input type="checkbox"/> Recreation | <input type="checkbox"/> Transportation/Traffic |
| <input type="checkbox"/> Utilities / Service Systems | <input type="checkbox"/> Mandatory Findings of Significance | |

DETERMINATION:

On the basis of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

David Rizk
Signature

David Rizk, AICP
Printed Name

September 7, 2004
Date

City of Hayward
Agency

ENVIRONMENTAL ISSUES:

<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
---	--	---	----------------------

I. AESTHETICS -- Would the project:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Have a substantial adverse effect on a scenic vista? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Substantially degrade the existing visual character or quality of the site and its surroundings? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| <i>The proposed amendments would help ensure that aesthetic impacts associated with development in the LM Zoning District in the Mt. Eden area of the City would be minimized in that they would establish design and performance standards for uses outside the South of Route 92 Specific Plan area, which currently do not exist.</i> | | | | |
| d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

II. AGRICULTURE RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

III. AIR QUALITY -- Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Conflict with or obstruct implementation of the applicable air quality plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

	<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

IV. BIOLOGICAL RESOURCES -- Would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

V. CULTURAL RESOURCES -- Would the project:

a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

VI. GEOLOGY AND SOILS -- Would the project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

VII. HAZARDS AND HAZARDOUS MATERIALS - Would the project:

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

VIII. HYDROLOGY AND WATER QUALITY -- Would the project:

a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

IX. LAND USE AND PLANNING - Would the project:

a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

X. MINERAL RESOURCES -- Would the project:

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XI. NOISE - Would the project result in:

a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XII. POPULATION AND HOUSING -- Would the project:

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XIII. PUBLIC SERVICES

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XIV. RECREATION --

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XV. TRANSPORTATION/TRAFFIC -- Would the project:

	<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XVI. UTILITIES AND SERVICE SYSTEMS - Would the project:

a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
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XVII. MANDATORY FINDINGS OF SIGNIFICANCE --

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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**DEPARTMENT OF
COMMUNITY AND ECONOMIC DEVELOPMENT
Planning Division**

NEGATIVE DECLARATION

Notice is hereby given that the City of Hayward finds that no significant effect on the environment as prescribed by the California Environmental Quality Act of 1970, as amended will occur for the following proposed project:

I. PROJECT DESCRIPTION:

The proposed project involves an amendment to the provisions of the Public Utilities Chapter of the Hayward Municipal Code, which require connection to the public sewer system if a property is within 200 feet of such system. Specifically, the amendment would allow a property in the Mt. Eden Annexation area that is legally serviced by a private septic system up to 10 years after annexation to connect to the public sewer system, provided certain conditions are met. Those conditions are: 1) there be no changes in use on the property, addition of facilities or other changes that increase the sewer discharge, 2) evidence is submitted annually that indicates the septic system is operating properly and 3) a notice is recorded on the property indicating the property will be required to connect to the public sewer system if failure of the septic system occurs, if expansion of use resulting in increased sewer discharge occurs or when the 10-year timeframe expires, whichever first occurs. (See attached proposed ordinance).

II. FINDING PROJECT WILL NOT SIGNIFICANTLY AFFECT ENVIRONMENT:

The proposed project will have no significant effect on the area's resources, cumulative or otherwise.

III. FINDINGS SUPPORTING DECLARATION:

1. The project has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and an Initial Study Environmental Checklist Form (attached) has been completed for the proposed project. The Initial Study has determined that the proposed project could not result in significant effects on the environment.
2. The proposed amendment would allow delays in connecting to the public sewer system while requiring annual proof that effected septic systems are functioning properly, thereby helping to ensure negative environmental impacts related to sewer discharge do not exist.

**IV. PERSON WHO PREPARED INITIAL STUDY: David Rizk, AICP, Associate Planner,
City of Hayward**

Dated: September 20, 2004

V. COPY OF INITIAL STUDY IS ATTACHED

For additional information, please contact David Rizk at the City of Hayward Planning Division, 777 B Street, Hayward, CA 94541-5007 or telephone (510) 583-4004

DISTRIBUTION/POSTING

- Provide copies to project applicants and all organizations and individuals requesting it in writing.
- Reference in all public hearing notices to be distributed 20 days in advance of initial public hearing and/or published once in Daily Review 20 days prior to hearing.
- Project file.
- Post immediately upon receipt at the City Clerk's Office, the Main City Hall bulletin board, and in all City library branches, and do not remove until the date after the public hearing.



Environmental Checklist Form

1. Project title:
An amendment to the provisions of the Public Utilities Chapter of the Hayward Municipal Code related to connection to the public sewer system for properties in the Mt. Eden Annexation area.
2. Lead agency name and address:
City of Hayward
777 B Street
Hayward, CA 94541
3. Contact person and phone number and e-mail address:
David Rizk, AICP, (510) 583-4004, david.rizk@hayward-ca.gov
4. Project location:
Citywide
5. Project sponsor's name and address:
City of Hayward Planning Director
777 B Street
Hayward, CA 94541
6. General Plan:
Industrial Corridor, Medium Density Residential, Retail and Office Commercial
7. Zoning:
Medium Density Residential (RM), Industrial (I), Light Manufacturing, Planning/Research and Development (LM), Neighborhood Commercial (CN)
8. Description of project:
The proposed project involves an amendment to the provisions of the Public Utilities Chapter of the Hayward Municipal Code. Specifically, the amendment would allow a property in the Mt. Eden Annexation area that is legally serviced by a private septic system up to 10 years after annexation to connect to the public sewer system, provided certain conditions are met. Those conditions are: 1) there be no changes in use on the property, addition of facilities or other changes that increase the sewer discharge, 2) evidence is submitted annually that indicates the septic system is operating properly and 3) a notice is recorded on the property indicating the property will be required to connect to the public sewer system if failure of the septic system occurs, if expansion of use resulting in increased sewer discharge occurs or when the 10-year timeframe expires, whichever first occurs. (See attached proposed ordinance).
9. Surrounding land uses and setting:
Various industrial uses to the west, north and south, mobile home park to the northeast and single-family residential uses to the east and southeast.
10. Other public agencies whose approval is required:
None.

ENVIRONMENTAL ISSUES:

	<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
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I. AESTHETICS -- Would the project:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Have a substantial adverse effect on a scenic vista? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Substantially degrade the existing visual character or quality of the site and its surroundings? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

II. AGRICULTURE RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

III. AIR QUALITY -- Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Conflict with or obstruct implementation of the applicable air quality plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

	<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

IV. BIOLOGICAL RESOURCES -- Would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

V. CULTURAL RESOURCES -- Would the project:

a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

VI. GEOLOGY AND SOILS -- Would the project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

VII. HAZARDS AND HAZARDOUS MATERIALS ¶ Would the project:

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? <i>Although the effected properties are located within the Hayward Executive Airport Master Plan area, no safety hazard would be expected to be generated as a result of the project, since the proposed Code amendment would require evidence to be submitted annually showing the involved septic systems are functioning properly.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

VIII. HYDROLOGY AND WATER QUALITY -- Would the project:

a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

IX. LAND USE AND PLANNING - Would the project:

a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? <i>The proposed text amendment would establish an exception to the sewer connection provisions for certain properties in the Mt. Eden Annexation area; however, the proposed amendment would require evidence to be submitted annually showing the involved septic systems are functioning properly.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

X. MINERAL RESOURCES -- Would the project:

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XI. NOISE ≠ Would the project result in:

a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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	<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XII. POPULATION AND HOUSING -- Would the project:

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XIII. PUBLIC SERVICES

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
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XIV. RECREATION --

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

XV. TRANSPORTATION/TRAFFIC -- Would the project:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) Result in inadequate emergency access? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f) Result in inadequate parking capacity? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

XVI. UTILITIES AND SERVICE SYSTEMS † Would the project:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?
<i>The proposed amendment would not impact such requirements.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

	<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XVII. MANDATORY FINDINGS OF SIGNIFICANCE --

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

ORDINANCE NO. 04-____

AN ORDINANCE AMENDING SECTION 11-3.201 OF CHAPTER 11, ARTICLE 3 OF THE HAYWARD MUNICIPAL CODE, ESTABLISHING AN EXCEPTION TO THE REQUIREMENT TO CONNECT TO THE PUBLIC SEWER SYSTEM FOR CERTAIN PROPERTIES IN THE MT. EDEN ANNEXATION AREA

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. FINDINGS. The proposed text amendment relates to establishing an exception to the provisions of the Public Utilities Chapter of the Municipal Code that require connection to the public sewer system if a property is within 200 feet of such system. Specifically, the text amendment would allow properties in the Mt. Eden Annexation area up to 10 years to connect to the public sewer system, provided certain conditions are met. A related application for a Zone Change (Application PL-2004-0313 ZC) is proposed via adoption of Ordinance No. 04-____. The City Council incorporates by reference the findings and approvals contained in companion Resolution No. 04-____, associated with the proposed annexation.

The City Council finds and determines as follows:

- A. The proposed text amendment will minimize fiscal impacts on residents and owners in the Mt. Eden Annexation area by allowing them up to 10 years to connect their properties to the public sewer system, provided their existing septic systems are operating sufficiently and provided no expansion of use occurs that would generate additional sewer discharge.
- B. The proposed text amendment is in conformance with the purposes of all applicable, officially adopted policies and plans, since potential health hazards related to wastewater disposal for a limited number of properties would be addressed by requiring connection to the public sewer system should a private septic system fail.
- C. Streets and public facilities, proposed to be improved with annexation, are currently adequate to support the existing uses potentially affected by the text amendment.

Section 2. SCOPE. The proposed text amendment is associated with the properties in the Mt. Eden Annexation Area, which are identified in the attached map, Exhibit "A" and the attached list of potentially affected properties, Exhibit "B," incorporated herein by reference.

Section 3. TEXT CHANGE. Chapter 11, Article 3, Section 11-3.201 of the Hayward Municipal Code related to requirements to connect to the municipal sewer system is hereby amended as follows:

“SEC. 11-3.201 DUTY TO CONNECT TO MUNICIPAL SEWER.

The owner of any property used for human occupancy, employment, recreation, or other purpose, which abuts on any street, alley or right of way in which there is located a public sanitary sewer of the City, is hereby required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with said public sewer in accordance with the provisions of this Article, within ninety (90) days after date of official notice to do so provided that said public sewer is within two hundred (200) feet of the property line, except:

(a) aAny owner receiving such notice may apply in writing to the City Manager before expiration of said ninety (90) day period for a permit to delay the installation of such a sewer service not to exceed one (1) year if the owner can furnish sufficient evidence to the City Manager that:

- (a1) Connection to the sewer at this time would be impractical due to personal hardship; and
- (b2) The premises are now served by a septic tank; and
- (e3) By written report of the Alameda County Department of Environment Health, the septic tank is operating efficiently now and that its continued operation would not create a hazard to public health.

Upon receipt of such evidence to the City Manager's satisfaction, the said extension of time for completing the connection may be granted in writing. Such a delay shall not be subject to further extensions.

(b) Any property legally serviced by a private septic system in the Mt. Eden Annexation area can delay connecting to the public sewer system for up to 10 years from the effective date of the annexation, provided that:

- (1) The owner of the affected property receiving official notice to connect to the public sewer system submits a written notice to the Director of Public Works within 90 days of receipt of such notice, indicating he/she wishes to delay connection;
- (2) There are no changes in use on the property, addition of facilities or other changes that increase the sewer discharge; and
- (3) The owner of the affected property provides written evidence to the City annually by December of each calendar year that the septic system is operating

properly. Evidence can take the form of an inspection report by a licensed plumbing contractor with experience in inspecting septic systems or the Alameda County Department of Environmental Health.

Upon receipt of such evidence to the City Manager's satisfaction, the said extension of time for completing the connection may be granted in writing. Such a delay shall not be subject to further extensions.

Owners of properties affected by this exception shall be required to record with the Alameda County Recorder's Office a notice indicating that the property will be required to connect to the public sewer system upon written notice from the City of Hayward if failure of the septic system occurs, if expansion of use resulting in increased sewer discharge occurs or when the 10-year timeframe expires, whichever first occurs.

Properties that connect to the City system will be required to pay all connection charges in effect at the time of connection."

Section 4. SEVERANCE. Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid or beyond the authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided that the remainder of the ordinance, absent the excised portion, can be reasonably interpreted to give effect to intentions of the City Council.

Section 5. EFFECTIVE DATE. This ordinance shall apply only if annexation of the involved properties is approved, and shall become effective upon the effective date of such annexation.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the ____ day of _____, 2004, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held the ____ day of _____, 2004, by the following votes of members of said City Council:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

WALT DANIELSON
782-2265

10/01/04 14:19 CLK
RECEIVED

To: Hayward City Council and Mr. Jesus Armas, City Manager

OCT 04 2004

From: Middle Lane Residents

PLANNING DIVISION

Re: Mt. Eden Annexation, Middle Lane Street Design and Improvements

October 1, 2004

As residents and owners of property on Middle Lane, we are supportive of the City of Hayward's overall effort to prezone and annex the county pockets within the Mt. Eden Study Area. However, we have a particular concern with implementation of potential future street improvements related to the annexation.

Our specific concern is the right-of-way width and street section for Middle Lane between Eden Avenue and Clawiter Road. As noted in the Mt. Eden Annexation Draft EIR, Middle Lane between Eden Ave and Clawiter is currently a two-lane collector, mainly serving residential properties. A preliminary un-dated plan for Middle Lane entitled "Plan and Profile - Middle Lane," obtained from Hayward Public Works staff and prepared by BKF Engineers, indicates a 68-foot r.o.w. consisting of 4 travel lanes, and park strip and sidewalk on each side, with no provision for on-street parking. The 68-foot r.o.w. appears to require 18 feet of private property take (added to existing 50 foot r.o.w.), with 5 feet and 13 feet apparently taken from properties on the south and north sides of Middle Lane, respectively.

Special care is needed for this segment of Middle Lane given a number of existing residences and vacant lots suitable for new houses front on to the street. Even as an interim condition, it is not desirable to have residences front on to a busy 4-lane collector. Residences will have a difficult, dangerous time backing out on to the busy, 4-lane street, and will sorely miss the availability of on-street parking.

The Transportation and Circulation chapter of the Draft EIR appears to indicate approximately 430 peak hour trips moving westbound in the morning and eastbound in the afternoon between the Hesperian/Middle Lane and Clawiter/Middle Lane intersections. The Draft EIR and the BKF plan for Middle Lane referenced above also appear to indicate the existing stop-controlled Eden Ave/Middle Lane and Saklan/Middle Lane intersections would remain unsignalized.

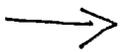
To facilitate full understanding of the issues surrounding the planned Middle Lane improvements, please provide responses to the following:

1. Please clarify when the decision on the design of Middle Lane will be made, and by what authority (i.e. City Council, City Manager, or Director of Public Works), and how the public can participate in that street design decision process.

cc: Mayor, City Council,
City Manager, and
Dept. PW CED

Planning (Anderly, Rizk)
Fwd: 10/1/04/ml

EXHIBIT K



2. Please also clarify when in the process of island annexation and future redevelopment the improvement of Middle Lane would occur, i.e. will Middle Lane be improved in advance by the City or as properties redevelop over time?
3. Please clarify whether signal warrants were met for either of these unsignalized intersections (Eden Ave/Middle Lane and Saklan/Middle Lane), and if not currently met, what traffic volume would warrant signals at these two intersections.
4. Please confirm the 18-foot property take required to achieve the 68-foot r.o.w. and justify the apparently unequal contribution (13 feet of 18 total) from properties on the north side of Middle Lane.
5. Please clarify whether a fully-improved 2-lane Middle Lane between Eden Ave and Clawiter Road with traffic signals at Eden Ave/Middle Lane and Saklan/Middle Lane intersections would function as efficiently (or perhaps more so) as the BKF design with 4-lane Middle Lane and stop-controlled intersections at Eden Avenue and Saklan Road, respectively.

Middle Lane Residents' Preference

A 2-lane 60-foot r.o.w. Middle Lane section (similar to BKF plan for Eden Ave) would require 8 feet less take of private property, would allow on-street parking on both sides of the street, and is the preferred design for those who will be most directly affected by the improved street.

Thank you for your attention to these issues and consideration for our concerns. We look forward to your responses and further dialogue with the City.

- Mr. Y. O. 1541 Middle Lane Hayward, CA 94545
- Walter Daniels, & Constantine Daniels, 1505 MIDDLE LANE
- Jessie H. Calkins, & Klorin W. Calkins 1558 Middle Lane
- Maryann T. Sylva 1558 Middle Ln.
- Edna M. Lira - 1560 middle lane Hayward CA 94544
- Julie Tolentino 1560 Middle Lane Hayward CA 94544
- Donna Buckley 1530 Middle Lane Hayward 94545
- Dan T. Jaki 1580 Middle Lane Hayward, CA 94545
- John J. P. 1530 Middle Lane Hayward CA. 94545
- Sharon 1580 23572 Saklan Rd. Hayward 94545.
- Joyce Wood - 1561 Middle Lane Hayward 94545
- David Patterson 1541 Middle Lane Hayward 94545

Preferred w. BKF
 24013 Eden Ave
 1508 + 1530 Middle Ln
 Hayward - 94545

DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced by Council Member _____

me
10/6/04

**RESOLUTION CERTIFYING PROGRAM ENVIRONMENTAL
IMPACT REPORT, ADOPTING MITIGATION MONITORING
AND REPORTING PROGRAM AND STATEMENT OF
OVERRIDING CONSIDERATIONS FOR PROPOSED
ANNEXATION AND APPROVING PREZONING OF MT.
EDEN ANNEXATION AREA**

WHEREAS, in 2003, the City initiated the Mt. Eden Annexation Study (the "Study"), as authorized by the City Council, to analyze the impacts of possible annexation to the City and prezoning of three unincorporated islands in the Mt. Eden area of Alameda County (Zone Change Application PL-2004-0313), generally referred to as the Saklan Road Island, the Depot Road Island and the Dunn Road Island (the "Project"); and

WHEREAS, over the course of the past year, a series of community meetings and work sessions has been held to analyze the results of the Study and disseminate information associated with the proposed Project; and

WHEREAS, City staff and consultants have prepared a Draft Program Environmental Impact Report ("DEIR") to analyze the potential environmental impacts of the proposed Project, which was made available for public comments, during the period from May 5, 2004, to June 21, 2004, pursuant to the requirements of the California Environmental Quality Act ("CEQA"); and

WHEREAS, a work session was held with the City Council on May 18, 2004, and the Planning Commission conducted a public hearing on June 10, 2004, to receive comments on the proposed Project and the DEIR; and

WHEREAS, written responses to comments on the DEIR were prepared in the form of a separate document entitled the "Final Environmental Impact Report" ("FEIR"), which together with the DEIR comprises the Program EIR for the proposed Project; and

WHEREAS, the Planning Commission held a public hearing on September 30, 2004, during which it considered the FEIR and the proposed Project and has recommended that the City Council certify the FEIR and adopt the Statement of Overriding Considerations and the Mitigation Monitoring and Reporting Program. The Planning Commission further recommended approval of an amendment to the Zoning Ordinance that would establish prezoning designations for the three unincorporated areas that are proposed for annexation, as set forth more particularly in Zone Change Application PL 2004-0313; and

WHEREAS, the City Council held a public hearing on October 12, 2004, during which it considered the reports and documents presented by City staff relative to the proposed Project and the FEIR; the Planning Commission's recommendation; the written and oral comments; the certification of the FEIR; the adoption of the Statement of Overriding Considerations and the Mitigation Monitoring and Reporting Program; the rezoning of the parcels within the Mt. Eden Annexation area; and to receive comments of the public.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward, based on the following findings and determinations, hereby certifies the FEIR, adopts the Mitigation Monitoring and Reporting Program and Statement of Overriding Considerations and approves Zone Change Application PL-2004-0313.

SECTION I. CERTIFICATION OF FEIR AND ADOPTION OF MITIGATION MONITORING REPORTING PROGRAM. The City Council has reviewed the documents comprising the Draft and Final Program EIR for the proposed Project and hereby finds that such FEIR reflects the independent judgment of the City Council and its staff and is an adequate and extensive assessment of the environmental impacts of the proposed annexation and rezoning of the Saklan Road, Depot Road and Dunn Road unincorporated islands. Accordingly, the City Council hereby certifies such FEIR as having been prepared in compliance with the requirements of the California Environmental Quality Act ("CEQA") and adopts the Mitigation and Monitoring Reporting Program.

SECTION II. MITIGATION MEASURES. The City Council also finds, based on the following, that the proposed mitigations set forth in the FEIR and the accompanying Mitigation Monitoring and Reporting Program will reduce all of the environmental impacts of the implementation of the proposed Project to an insignificant level, except for certain impacts relating to regional traffic growth and roadway congestion.

Potentially Significant Impact: Seismic Ground Shaking. During a major earthquake along a segment of the Hayward Fault or one of the other nearby faults, moderate to strong ground shaking can be expected to occur within the Project area. Strong shaking during an earthquake could result in damage to buildings, roads, utility lines and other structures with associated risk to residents, employees and visitors in the area.

Finding: Changes or alterations have been required in, or incorporated into, the Project that will avoid or substantially lessen the significant environmental effect identified in the Program EIR to a less-than-significant level.

Facts in Support of Finding: Consistent with standard construction industry practice, site-specific geotechnical reports prepared by geotechnical engineers registered in California will be required, with recommendations in those reports implemented, for each building or group of buildings (such as in a subdivision) and for roads and utility lines constructed in the Project area. Generally, such recommendations will address compaction of foundation soils, construction types of foundations and similar items, to ensure consistency with the California Building Code and all other applicable seismic safety requirements.

Potentially Significant Impact: Ground Failure and Liquefaction. The Project area is located within a State-defined Seismic Hazard Zone for liquefaction. Damage to structures and other improvements within the Project area could occur from seismically-induced ground failure and liquefaction, resulting in damage to improvements and harm to Project area residents and visitors.

Finding: Changes or alterations have been required in, or incorporated into, the Project that will avoid or substantially lessen the significant environmental effect identified in the Program EIR to a less-than-significant level.

Facts in Support of Finding: Site-specific geotechnical reports shall also address the potential for ground failure and liquefaction and include specific design and construction recommendations to reduce liquefaction and other seismic ground failure hazards to less-than-significant levels, consistent with standard construction industry practice and the California Seismic Hazards Mapping Act.

Potentially Significant Impact: Soil and/or Groundwater Contamination. Properties within the Project area may contain contaminated soil and/or be located above contaminated groundwater plumes. Construction of new residences and non-residential buildings may expose future residents, employees, visitors and construction personnel to soils and/or water-borne levels of contamination above acceptable regulatory levels, resulting in adverse health effects.

Finding: Changes or alterations either have been required to the Project or will be incorporated into the Project as may be required by the California Regional Water Quality Control Board and the Alameda County Environmental Health Department under their regulatory authorities, which will avoid or substantially lessen the significant environmental effect identified in the Program EIR to a less-than-significant level.

Facts in Support of Finding: A Phase I Environmental Site Analysis shall be submitted for each development project proposed in the Project area. If warranted by the Phase I report, a Phase II report shall also be completed and all recommendations included in the Phase II report shall be included in the project development plan. If remediation is required, a hazardous materials work program, to include a remediation workers safety plan, shall be submitted to the California Regional Water Quality Control Board and the Alameda County Department of Environmental Health, with a copy submitted to the Hayward Fire Department and Community and Economic Development Department, with necessary approvals and permit(s) to be obtained from those appropriate regulatory agencies. Such approvals and permits will ensure that contaminated soil and/or groundwater are appropriately and safely removed or cleaned, in accordance with State laws.

Potentially Significant Impact: Demolition and Hazardous Air Emissions. Demolition of existing buildings, utility facilities and other older facilities could release hazardous and potentially hazardous material into the atmosphere including asbestos containing materials and lead-based paints, potentially resulting in health hazards to construction employees and local visitors and residents.

Finding: Changes or alterations either have been required in the Project or will be incorporated into the Project as may required by the Bay Area Air Quality Management District and California Department of Toxic Substances Control under their regulatory authorities, which will avoid or substantially lessen the significant environmental effect identified in the Program EIR to a less-than-significant level.

Facts in Support of Finding: Prior to commencement of demolition activities within the Project area, project developers shall contact the Bay Area Air Quality Management District, California Department of Toxic Substances Control and the Hazardous Materials Division of the Hayward Fire Department, for required site clearances, necessary permits and facility closures with regard to demolition and removal of hazardous materials from the site. All work shall be performed by licensed contractors in accord with State and Federal OSHA standards. Worker safety plans shall be included for all demolition plans. Such approvals from these agencies will ensure demolition activities will not create significant impacts and will follow established State and local standards for such activities.

Also, prior to commencement of grading activities within the Project area, project developers shall conduct investigations by qualified hazardous material consultants to determine the presence or absence of asbestos-containing material in the soil. If such material is identified that exceeds standards and requirements of the Bay Area Air Quality Management District or the California State Department of Toxic Substances Control, remediation plans shall be prepared and implemented to remediate any hazards to established, acceptable levels, including methods for removal and disposal of hazardous material. Worker safety plans shall be prepared and necessary approvals and clearances shall be secured from appropriate regulatory agencies, including, but not limited to the Hayward Fire Department, California Department of Toxic Substances Control and the Bay Area Air Quality Management District. Such approvals will ensure any impacts associated with asbestos in the soil will be mitigated through established industry and State standards and requirements.

Potentially Significant Impact: Soil Erosion. During future construction that could be facilitated by annexation, short-term increases of soil erosion could result due to exposure to wind and water erosion as individual properties are graded and developed.

Finding: Changes or alterations either have been required or will be incorporated into the Project that will avoid or substantially lessen the significant environmental effect identified in the Program EIR to a less-than-significant level.

Facts in Support of Finding: Individual development projects within the Project area that disturb 10,000 square feet or more of land area shall prepare erosion and sedimentation control plans for implementation throughout Project construction. The plan should be prepared in accordance with the most current City of Hayward and Regional Water Quality Control Board design standards. Those plans and the established inspection process for grading and construction by the City of Hayward will ensure significant impacts associated with soil erosion will not occur.

Potentially Significant Impact: Non-point Source Pollution. The quality of stormwater runoff from the Project area could deteriorate due to development as it picks up increased road surface pollutants, pesticides from increased landscaping, and other urban pollutants that do not presently exist in such high concentrations.

Finding: Changes or alterations either have been required in the Project or will be incorporated into the Project as required by the State Water Resources Control Board under the Board's regulatory authority, which will avoid or substantially lessen the significant environmental effect identified in the Program EIR to a less-than-significant level.

Facts in Support of Finding: Any new development or redevelopment projects in the Project area shall implement construction methods that comply with performance standards of Section C.3 of the new NPDES Permit. In addition, for development or redevelopment projects that disturb more than 10,000 square feet of land, a Notice of Intent is required to be filed with the State of California Water Resources Control Board (SWRCB). A Stormwater Pollution Prevention Plan (SWPPP) is also required to be submitted to the SWRCB demonstrating use of specific best management practices during both construction and operational phases of such projects. The City of Hayward's established inspection procedures during and after construction will ensure such impacts will not be significant.

Potentially Significant Impact: Stormwater Runoff and Drainage Patterns: Future development within the Project area will increase the amount of stormwater runoff, since existing undeveloped or minimally developed properties would be converted to new structures, parking areas, roads and similar impervious surfaces. Existing drainage patterns will also be changed based on individual site grading operations, with resulting impacts to downstream drainage facilities.

Finding: Changes or alterations have been required in, or incorporated into, the Project that will avoid or substantially lessen the significant environmental effect identified in the Program EIR to a less-than-significant level.

Facts in Support of Finding: All new major development applications (involving 10,000 square feet of land area) within the Project area shall be accompanied by a drainage and hydrology study, prepared by a California-registered civil engineer. Each report shall document existing drainage quantities and direction, estimated increases in stormwater runoff from the proposed Project, an identification of existing and proposed funding of downstream drainage facilities and the capacity of such systems to accept additional run-off and the proposed Project's contribution to increasing the capacity of such systems, if needed. New development projects will be required to provide on-site detention, retention facilities and/or other improvements required by such studies to ensure that no net increase in downstream rate of stormwater flows occurs. Reports shall be approved by the Hayward City Engineer and Alameda County Flood Control and Water Conservation District staff prior to issuance of a grading permit. Such reports and reviews will ensure that no significant impacts will occur as a result of stormwater runoff associated with individual development projects.

Potentially Significant Impact: Flooding. Portions of the Project area lie within a 100-year flood hazard area and new construction within the area could be subject to flood damage during severe storms.

Finding: Changes or alterations have been required in, or incorporated into, the project that will avoid or substantially lessen the significant environmental effect identified in the Program EIR to a less-than-significant level. Also, if any involved areas are to be removed from the 100-year flood hazard area, such action will require approval from the Federal Emergency Management Agency.

Facts in Support of Finding: For future development within a 100-year flood hazard area, project applicants shall:

- (a) Submit a hydrology and hydraulic study prepared by a California-registered civil engineer proposing to remove the site from the 100-year flood hazard area through increasing the topographic elevation of the site or similar steps to minimize flood hazards. The study shall demonstrate that flood waters would not be increased on any surrounding sites. If such proposal is approved by the City of Hayward, the project shall implement the recommendations of the study, with City inspections to be done during grading operations to ensure such grading is done in accordance with the approved study.
- (b) Comply with Article 4 of Chapter 9 (Flood Plain Management) of the Hayward Municipal Code, which establishes minimum health and safety standards for construction in a flood hazard area. Again, City inspections conducted during grading and construction will ensure construction complies with City standards.
- (c) Apply to the City for a Conditional Letter of Map Revision to remove the site from the FEMA Flood Insurance Rate Map 100-year flood hazard area.

Potentially Significant Impact: Construction Noise Impacts. Future residents within and adjacent to Project area could be subject to short-term but potentially significant noise due to the construction of new buildings, roadway improvements and associated infrastructure improvements within the Project area.

Finding: Changes or alterations have been required in, or incorporated into, the Project that will avoid or substantially lessen the significant environmental effect identified in the Program EIR to a less-than-significant level.

Facts in Support of Finding: The Hayward Municipal Code will ensure that construction noises would be less-than-significant. Such section essentially limits construction hours to 7:00 a.m. to 7:00 p.m. on Mondays through Saturdays and from 10:00 a.m. to 6:00 p.m. on Sundays and holidays.

Potentially Significant Impact: Permanent Noise Impacts. Future construction of residences along the east side of Clawiter Road within the Project area could be subject to exterior noise levels within the “conditionally acceptable” noise level identified in the General Plan Noise Element.

Finding: Changes or alterations have been required in, or incorporated into, the Project that will avoid or substantially lessen the significant environmental effect identified in the Program EIR to a less-than-significant level.

Facts in Support of Finding: Site-specific acoustic reports shall be prepared by qualified acoustic consultants for future residential construction located along the east side of Clawiter Road. Each report shall include an analysis of potential noise exposure from residential development and include specific measures to reduce exposure levels to City of Hayward noise standards. Such reports will be reviewed and will need to be approved by decision-makers during the normal development review process, and implemented during project construction. Inspections by City of Hayward inspectors will ensure such measures are implemented.

Potentially Significant Impact: Vibration Impacts: Future construction within the Dunn Road and Depot Road subareas could be subject to potentially significant vibration levels from railroad operations and truck activities.

Finding: Changes or alterations have been required in, or incorporated into, the project that will avoid or substantially lessen the significant environmental effect identified in the Program EIR to a less-than-significant level.

Facts in Support of Finding: Future development within the Dunn Road and Depot Road subareas where vibration impacts are suspected to be a problem shall be reviewed for potential vibration impacts at the time such development is submitted for City of Hayward review. If warranted, building foundations and other improvements shall be designed by project engineers to reduce vibration levels to a less-than-significant level, including excavation and compaction of site soils, special foundation designs and structural design. Such measures are to be approved by Hayward building and engineering staff during normal development review and implemented during construction, to be verified by City inspectors during the established inspection process during construction.

Potentially Significant Impact: Local and Community Park and Recreation Facilities. Approval of the proposed annexation and subsequent development within the City of Hayward would increase the demand for local and community park and recreation facilities within the Mt. Eden area by 8.3 acres of parkland.

Finding: Changes or alterations have been required in, or incorporated into, the Project that will avoid or substantially lessen the significant environmental effect identified in the Program EIR to a less-than-significant level. The Hayward Area Recreation and Park District (HARD) will be required to approve any new park sites to be dedicated to the public.

Facts in Support of Finding: Payment of park dedication in-lieu fees or dedication/development of parkland and/or recreation facilities, as approved by HARD, at the time future development is permitted, will mitigate the demand for future parks. In 2003 and 2004, park dedication in-lieu fees were \$11,953 per unit for single-family detached units, \$11,395 per unit for single-family attached units and \$9,653 per unit for multi-family units. Possibilities for enhanced park and recreation facilities in and adjacent to the Project area may include the expansion and development of Greenwood Park, and/or the expansion of joint use facilities at Chabot College and Ochoa Middle School/Rancho Arroyo Park and a 3.55-acre area just west of the Waterford apartment complex along Depot Road within City limits, which is identified as a potential park site in the Mt. Eden Neighborhood Plan. Provision of new parks or payment of such fees would be considered sufficient measures to reduce impacts to parks resulting from new project development to insignificant levels.

Potentially Significant Impact: Local Schools. Future development within the Project area would generate an estimated 190 elementary school students, 43 middle school students and 100 high school students at buildout of General Plan residential land use mid-range densities. All of the Project area is within the Hayward Unified School District boundaries.

Finding: Changes or alterations have been required in, or incorporated into, the Project that will avoid or substantially lessen the significant environmental effect identified in the Program EIR to a less-than-significant level. If other mitigation measures besides payment of school impact fees are offered and accepted, the Hayward Unified School District will need to approve such measures.

Facts in Support of Finding: Prior to approvals of land use entitlements for individual development projects within the Project area by the City of Hayward, each project proponent shall pay school impact mitigation fees in effect at the time building permits are granted, or provide other mitigation as found acceptable by the Hayward Unified School District (HUSD). California Education Code 17620 authorizes qualifying school districts to levy a fee against any development project for the construction or reconstruction of school facilities. Currently, the fee allowed to be assessed by the Hayward Unified School District is \$3.25 per square foot for residences and \$0.36 per square foot for commercial or industrial construction. Such fees will provide funding to help pay for school facility upgrades within the School District, considered sufficient to mitigate impacts to local schools to insignificant levels.

Potentially Significant Impact: Loss of Trees. Future widening of streets within the Project area to accommodate anticipated development would result in loss of trees protected under the City's Tree Preservation Ordinance. Other protected trees would likely be removed on private property to accommodate development envisioned in the Hayward General Plan.

Finding: Changes or alterations have been required in, or incorporated into, the Project that will avoid or substantially lessen the significant environmental effect identified in the Program EIR to a less-than-significant level.

Facts in Support of Finding: Prior to widening of any streets within the Project area or development on private properties where protected trees exist, a tree survey shall be completed by a qualified arborist to determine if protected trees could be preserved and to identify specific preservation methods. If preservation is not feasible, a tree replacement plan shall be prepared in conformity with the City's Tree Preservation ordinance and approved by the Hayward Community and Economic Director, and implemented prior to project finalization.

SECTION III. CONSIDERATION OF PROJECT ALTERNATIVES. The FEIR evaluates the potential impacts of the Project and two alternatives: the No Project Alternative and the Maximum General Plan Density Development. The principal elements of the two alternatives are summarized below.

- No Project Alternative. This alternative assumes that the Mt. Eden Annexation Project is not approved, the existing buildings and land uses would remain in their respective current conditions and no development would occur. Under this alternative, existing service deficiencies leading to potentially significant impacts would still remain, including the lack of extension of City water and wastewater facilities to serve existing properties, which impacts the fire-fighting ability of the Hayward Fire Department, lack of remediation of soil and/or groundwater contamination, and more difficulty in the ability of the City to provide traffic and transportation improvements within the Project area. Therefore the proposed Project would be the environmentally superior alternative.
- Maximum General Plan Density Development. This alternative assumes development of the vacant and underutilized parcels within the Project area at the high end of the medium density range of the land use classification. Under this alternative, a total of 575 new dwellings could be constructed, an increase of 100 dwellings over that assumed for the proposed Project. The same amount of non-residential floor space would be constructed as under the proposed Project. Based on an average person-per-dwelling unit occupancy, this alternative would result in an estimated population increase of approximately 300 additional people over the proposed Project. Potential impacts to utility and service systems, schools, parks and storm drainage runoff would be somewhat greater under this alternative than for the proposed Project. Therefore the proposed Project would be the environmentally superior alternative.

SECTION IV. POTENTIALLY UNAVOIDABLE SIGNIFICANT ENVIRONMENTAL IMPACT. The FEIR indicates that implementation of the proposed Project may have the following potentially unavoidable significant environmental impact. Because of the programmatic nature of the FEIR it cannot be determined with certainty at this time that the impact can be mitigated.

Regional Traffic Growth and Roadway Congestion: Regional traffic growth and roadway congestion is likely to remain significant after the implementation of reasonably foreseeable mitigation measures. Overall growth trends in the region and the limited land area and capital resources for major changes in development patterns in the City are likely to result in on-going traffic congestion on several roadways in the City and the vicinity.

SECTION V. STATEMENT OF OVERRIDING CONSIDERATIONS. Although the proposed Project would result in development that would be no more intensive than that envisioned in the City's General Plan, traffic in the City is expected to increase as a result of continued development in the region. As reflected in Table 6.6 and Figure 6.5 of the General Plan Update EIR, some intersections and roadway segments throughout the City are expected to operate at Levels of Service E or F in the year 2025. The General Plan Update EIR indicates that regional through traffic accounts for up to 25 to 30 percent of the peak hour trips on some major arterials within the City and that "the City's ability to mitigate this traffic through land use planning is limited." The General Plan Update EIR concluded that "it is likely that some roadways will continue to operate at less than acceptable levels due to physical constraints, funding limitations, and regional growth patterns. Therefore, the overall traffic impact is expected to be significant and unavoidable."

Adoption and implementation of the Mt. Eden Annexation Project will bring substantial benefits to the City of Hayward. The Project is being proposed, despite the potential for this unavoidable impact, because the City believes that the Project will provide for additional housing and will assist in meeting the City's fair share of the regional housing need without substantially increasing local traffic impacts compared to existing trends. Therefore, the City of Hayward finds that the unavoidable impact associated with the Mt. Eden Annexation Project is acceptable in light of the above benefits and adopts and makes this statement of overriding considerations.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2004

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced by Council Member _____

me
10/6/04

RESOLUTION ADOPTING THE NEGATIVE
DECLARATION AND APPROVING TEXT AMENDMENT
APPLICATION NO. PL 2004-0338, RELATING TO
PROVISIONS IN THE LIGHT MANUFACTURING ZONING
DISTRICT FOR STORAGE-RELATED USES AND DESIGN
STANDARDS

WHEREAS, Text Amendment Application No. 2004-0338, concerns an amendment to Article 1 of Chapter 10 of the Hayward Municipal Code, relating to provisions in the Light Manufacturing Zoning District for storage-related uses and design standards; and

WHEREAS, an initial study and negative declaration have been prepared and processed in accordance with City and CEQA guidelines; and

WHEREAS, the Planning Commission, at its meeting of September 30, 2004, considered the matter and recommended approval of the text amendment and adoption of the Negative Declaration, and its action thereon is on file in the office of the City Clerk and is hereby referred to for further particulars.

NOW THEREFORE BE IT RESOLVED, that the City Council hereby finds and determines that Text Amendment Application No. 2004-0338 has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and an Initial Study has been prepared for the proposed project. The Initial Study has determined that the proposed project could not result in significant effect on the environment, therefore it is determined that adoption of the Negative Declaration is the appropriate action.

BE IT FURTHER RESOLVED, based on the findings set forth above and in the companion ordinance, that Text Amendment Application No. 2004-0338 is hereby approved.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2004

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced by Council Member _____

me
10/6/04

RESOLUTION ADOPTING THE NEGATIVE
DECLARATION AND APPROVING AMENDMENT TO
ARTICLE 3 OF CHAPTER 11 OF THE HAYWARD
MUNICIPAL CODE RELATING TO THE MT. EDEN
ANNEXATION AREA

WHEREAS, the proposed amendment to Article 3 of Chapter 11 of the Hayward Municipal Code, permits certain parcels in the Mt. Eden Annexation area up to ten years to connect to the City's public sewer systems provided that certain conditions are satisfied; and

WHEREAS, an Initial Study and Negative Declaration have been prepared and processed in accordance with City and CEQA guidelines; and

WHEREAS, the City Council, at its meeting of October 12, 2004, considered the matter and recommended approval of the amendment and adoption of the Negative Declaration, and its action thereon is on file in the office of the City Clerk and is hereby referred to for further particulars.

NOW THEREFORE BE IT RESOLVED, that the City Council hereby finds and determines that the proposed amendment has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and an Initial Study has been prepared for the proposed project. The Initial Study has determined that the proposed project could not result in significant effect on the environment, therefore it is determined that adoption of the Negative Declaration is the appropriate action.

BE IT FURTHER RESOLVED, based on the findings set forth above, that the proposed amendment to Article 3 of Chapter 11, is hereby approved, subject to the adoption of the companion ordinance.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2004

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced by Council Member _____

me
10/6/04

RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF HAYWARD MAKING APPLICATION TO
ALAMEDA COUNTY LOCAL AGENCY FORMATION
COMMISSION REQUESTING INITIATION OF
PROCEEDINGS FOR A CHANGE OF ORGANIZATION
PURSUANT TO THE CORTESE-KNOX-HERTZBERG LOCAL
GOVERNMENT REORGANIZATION ACT OF 2000 -
MT. EDEN ANNEXATION

WHEREAS, pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code section 56000 et seq.), the City of Hayward, as an affected city, hereby submits a proposal for a change of organization and respectfully requests the Local Agency Formation Commission of Alameda County (LAFCO) to initiate proceedings thereon; and

WHEREAS, notice of intent to adopt this resolution of application has been given to each interested and each subject agency; and

WHEREAS, the territory proposed to be annexed is inhabited and a description of the boundaries of the territory is set forth in Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, the proposal is consistent with the Sphere of Influence of the City of Hayward; and

WHEREAS, the City Council has approved a Plan for Providing Municipal Services to the area proposed for annexation which sets forth the improvements to be undertaken; and

WHEREAS, this annexation is being proposed to provide for the orderly development of the Mt. Eden Area; and

WHEREAS, the City Council has certified that the Program Environmental Impact Report has been prepared pursuant to the California Environmental Quality Act (CEQA) and the City's implementing guidelines, and that a Statement of Overriding Considerations has been adopted for identified significant and unavoidable impacts.

NOW, THEREFORE, BE IT RESOLVED that this Resolution of Application is hereby adopted and approved by the City Council of the City of Hayward and the Local Agency Formation Commission of Alameda County is hereby requested to take proceedings for the annexation of the territory described in Exhibit "A," according to the terms and conditions stated above and in the manner provided by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2004

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS: None

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced by Council Member _____

MHE
10/6/04

RESOLUTION APPROVING PLAN FOR PROVIDING MUNICIPAL SERVICES IN RELATION TO MT. EDEN AREA ANNEXATION APPLICATION

WHEREAS, the City Council has submitted a proposal for a change of organization to the Local Agency Formation Commission of Alameda County to initiate proceedings for the annexation of the Mt. Eden Area and considered a Plan for Providing Municipal Services in conjunction with the annexation request, as required by LAFCo guidelines; and

WHEREAS, said Plan for Providing Municipal Services provides a summary of the changes in service providers, as well as information on needed infrastructure, costs, timing and methods of financing said services required for the requested annexation.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the Plan for Providing Municipal Services attached hereto as Exhibit "A" and incorporated herein by reference is hereby approved.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2004

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

DRAFT

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 10,
ARTICLE 1 OF THE HAYWARD MUNICIPAL CODE
BY PREZONING CERTAIN TERRITORY
CONSIDERED IN CONNECTION WITH ZONE
CHANGE APPLICATION PL-2004-0313 RELATING
TO THE MT. EDEN ANNEXATION AREA

True
10/6/04

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS
FOLLOWS:

Section 1. FINDINGS. Zone Change Application PL-2004-0313 concerns the prezoning of certain parcels located in Alameda County and proposed for annexation into the City, in the Mt. Eden area. The City Council finds and determines as follows:

- A. Substantial proof exists that the proposed prezoning will promote the public health, safety, convenience, and general welfare of the residents of Hayward by prezoning properties to enable annexation of said properties into the City of Hayward and related public infrastructure improvements.
- B. The proposed prezoning is in conformance with the purposes of the Zoning Ordinance and all applicable, officially adopted policies and plans, including the General Plan and the Mt. Eden Neighborhood Plan.
- C. Streets and public facilities existing or proposed to be upgraded will be adequate to serve all uses permitted when property is reclassified.
- D. All uses permitted when property is reclassified will be compatible with present and potential future uses, and, further, beneficial effects related to annexation and public infrastructure improvements will be achieved, which is not obtainable under existing regulations and conditions.

Section 2. SCOPE. This ordinance pertains to the prezoning of certain properties located in the Mt. Eden Annexation Study Area.

Section 3. ZONE CHANGES. Article 1 of Chapter 10 of the Hayward Municipal Code is hereby amended to prezone the properties as set forth and identified on the map in Exhibit "A" and the chart in Exhibit "B," incorporated herein by reference.

Section 4. SEVERANCE. Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid or beyond the authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided that the remainder of the ordinance, absent the excised portion, can be reasonably interpreted to give effect to intentions of the City Council.

Section 5. EFFECTIVE DATE. The zoning designations set forth herein shall become effective only at such time as the annexation of the Mt. Eden area is effective.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the _____ day of _____, 2004, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held the _____ day of _____, 2004, by the following votes of members of said City Council:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

DRAFT

ORDINANCE NO. _____

MHE
10/2/04

AN ORDINANCE AMENDING SECTION 10-1.1800 OF
ARTICLE 1 OF CHAPTER 10 OF THE HAYWARD
MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS
FOLLOWS:

Section 1. FINDINGS. Text Amendment Application PL 2004-0338 relates to the proposed Mt. Eden Annexation and involves amendments to the provisions of the Light Manufacturing, Planning, Research and Development District (LM). The City Council finds and determines as follows:

- A. The proposed changes would allow storage facilities located in the County to continue should annexation occur, if a conditional use permit is approved by the City, thereby providing an opportunity for such services to continue to be available for residents of the City. Additionally, the proposed changes would establish development, design and performance standards for uses in the LM District for areas outside the South of Route 92 Specific Plan area, which currently do not exist.
- B. The proposed text amendments are in conformance with the purposes of the Zoning Ordinance and all applicable, officially adopted policies and plans, including the General Plan and the Mt. Eden Neighborhood Plan.
- C. Streets and public facilities existing or proposed to be upgraded will be adequate to serve all uses permitted with the proposed text changes.
- D. With the proposed establishment of new development, design and performance standards for uses in the LM District, all uses permitted with the proposed text changes will be compatible with present and potential future uses.

Section 2. TEXT CHANGES. Chapter 10, Article 1, section 10-1.1800 of the Hayward Zoning Ordinance, pertaining to the Light Manufacturing, Planning/Research and Development District (LM), is hereby amended as set forth in Exhibit A attached hereto.

Section 3. SEVERANCE. Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid or beyond the authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided that the remainder of the

ordinance, absent the excised portion, can be reasonably interpreted to give effect to intentions of the City Council.

Section 4. EFFECTIVE DATE. In accordance with the provisions of section 620 of the City Charter, this ordinance shall become effective from and after the date of its adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the ____ day of _____, 2004, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held the ____ day of _____, 2004, by the following votes of members of said City Council:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

DRAFT

ORDINANCE NO. _____

ORDINANCE AMENDING SECTION 11-3.201, ARTICLE 3,
CHAPTER 11 OF THE HAYWARD MUNICIPAL CODE
RELATING TO PUBLIC SEWER CONNECTIONS IN THE
MT. EDEN ANNEXATION AREA

*move
10/6/04*

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. FINDINGS. The proposed amendment establishes an exception to the provisions of the Public Utilities Chapter of the Municipal Code that require connection to the public sewer system if a property is within 200 feet of such system. Specifically, the amendment would allow specified properties in the Mt. Eden Annexation area up to 10 years to connect to the public sewer system, provided certain conditions are met.

The City Council finds and determines as follows:

- A. The proposed amendment will minimize fiscal impacts on residents and owners in the Mt. Eden Annexation area by allowing them up to 10 years to connect their properties to the public sewer system, provided their existing septic systems are operating sufficiently and provided no expansion of use occurs that would generate additional sewer discharge.
- B. The proposed amendment is in conformance with the purposes of all applicable, officially adopted policies and plans, since potential health hazards related to wastewater disposal for a limited number of properties would be addressed by requiring connection to the public sewer system should a private septic system fail.
- C. Streets and public facilities, proposed to be improved with annexation, are currently adequate to support the existing uses potentially affected by the amendment.

Section 2. SCOPE. The proposed amendment applies to properties in the Mt. Eden Annexation Area, which are identified in the attached map, Exhibit "A" and the attached list of potentially affected properties, Exhibit "B," incorporated herein by reference.

Section 3. AMENDMENT. Chapter 11, Article 3, section 11-3.201 of the Hayward Municipal Code related to requirements to connect to the municipal sewer system is hereby amended as follows:

“SEC. 11-3.201 DUTY TO CONNECT TO MUNICIPAL SEWER.

The owner of any property used for human occupancy, employment, recreation, or other purpose, which abuts on any street, alley or right of way in which there is located a public sanitary sewer of the City, is hereby required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with said public sewer in accordance with the provisions of this Article, within ninety (90) days after date of official notice to do so provided that said public sewer is within two hundred (200) feet of the property line, except:

(a) Any owner receiving such notice may apply in writing to the City Manager before expiration of said ninety (90) day period for a permit to delay the installation of such a sewer service not to exceed one (1) year if the owner can furnish sufficient evidence to the City Manager that:

- (1) Connection to the sewer at this time would be impractical due to personal hardship; and
- (2) The premises are now served by a septic tank; and
- (3) By written report of the Alameda County Department of Environment Health, the septic tank is operating efficiently now and that its continued operation would not create a hazard to public health.

Upon receipt of such evidence to the City Manager's satisfaction, the said extension of time for completing the connection may be granted in writing. Such a delay shall not be subject to further extensions.

(b) Any property legally serviced by a private septic system in the Mt. Eden Annexation area can delay connecting to the public sewer system for up to 10 years from the effective date of the annexation, provided that:

- (1) The owner of the affected property receiving official notice to connect to the public sewer system submits a written notice to the Director of Public Works within 90 days of receipt of such notice, indicating he/she wishes to delay connection;
- (2) There are no changes in use on the property, addition of facilities or other changes that increase the sewer discharge; and
- (3) The owner of the affected property provides written evidence to the City annually by December of each calendar year that the septic system is operating properly. Evidence can take the form of an inspection report by a licensed plumbing contractor with experience in inspecting septic systems or the Alameda County Department of Environmental Health.

Upon receipt of such evidence to the City Manager's satisfaction, the said extension of time for completing the connection may be granted in writing. Such a delay shall not be subject to further extensions.

Owners of properties affected by this exception shall be required to record with the Alameda County Recorder's Office a notice indicating that the property will be required to connect to the public sewer system upon written notice from the City of Hayward if failure of the septic system occurs, if expansion of use resulting in increased sewer discharge occurs or when the 10-year time frame expires, whichever first occurs.

Properties that connect to the City system will be required to pay all connection charges in effect at the time of connection."

Section 4. SEVERANCE. Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid or beyond the authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided that the remainder of the ordinance, absent the excised portion, can be reasonably interpreted to give effect to intentions of the City Council.

Section 5. EFFECTIVE DATE. This ordinance shall apply only if annexation of the involved properties is approved, and shall become effective upon the effective date of such annexation.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the ____ day of _____, 2004, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held the ____ day of _____, 2004, by the following votes of members of said City Council:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward