



<b>DOCKET</b> <b>06-AFC-6</b>
DATE APR 04 2007
RECD. APR 10 2007

April 4, 2007

Lorne Prescott  
Project Manager  
California Energy Commission  
1516 Ninth Street, MS-15  
Sacramento, CA 95814

Re: Determination that the Eastshore Energy Center is not Consistent with the City of Hayward's Industrial Zoning District and General Plan

Dear Mr. Prescott:

As you know, the Hayward City Council determined on March 13, 2007 that the Eastshore Energy Center is not consistent with Hayward's Industrial Zoning District and General Plan. A copy of the adopted resolution is enclosed for your reference and files.

Please let me know if you have any questions.

Sincerely,

David Rizk, AICP  
Planning Manager

cc: Jesús Armas, City Manager  
Susan J. Daluddung, Director of Community and Economic Development Department  
Robert Bauman, Director of Public Works Department  
Angelina Reyes, City Clerk  
Michael O'Toole, City Attorney

Enclosure

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT  
PLANNING DIVISION

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HAYWARD CITY COUNCIL

RESOLUTION NO. 07-028

Introduced by Council Member Halliday

**RESOLUTION FINDING THAT THE EASTSHORE ENERGY CENTER PROPOSED AT 25101 CLAWITER ROAD IS NOT CONSISTENT WITH THE GENERAL PLAN AND INDUSTRIAL ZONING DISTRICT**

WHEREAS, Eastshore Energy, LLC has made a request for the City of Hayward to make a determination that a proposed 115 megawatt power plant, to be located at 25101 Clawiter Road, is consistent with General Plan policies and the Industrial Zoning District; and

WHEREAS, the authority to license power plants in California that generate more than 50 megawatts of power rests with the California Energy Commission (CEC); the CEC is currently processing an application for this power plant and is scheduled to make a final decision in the fall of 2007; and

WHEREAS, the CEC must determine that a project conforms to Local Ordinances Regulations and Standards (LORS). A power plant is not a listed use within the Hayward Industrial Zoning District, and the Zoning Ordinance indicates that when a use is not specifically listed, it shall be assumed that such uses are prohibited unless it is determined ...that the use is similar to and not more objectionable or intensive than the uses listed; and

WHEREAS, it is staff's opinion that the proposed power plant is not consistent with the purpose of the General Plan and Industrial Zoning District.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby finds and determines:

1. The proposed power plant is not consistent with the purpose of the Industrial (I) Zoning District in that it would result in a facility that would not promote a desirable and attractive working environment with a minimum of detriment to surrounding properties, because it would have the potential to generate air quality impacts related to particulate matter and nitrogen oxides emissions and would entail fourteen 70-foot tall venting stacks, which would not be compatible with the heights of other structures in the vicinity;
2. The proposed power plant would impair the character and integrity of the zoning district and surrounding area with the introduction of highly visible 70-foot tall

venting stacks, which would be seen from residential areas to the east and would be incompatible with the heights of existing facilities in the area;

3. The proposed power plant would be detrimental to the public health, safety, or general welfare due to the potential for air quality and hazardous materials impacts related to the use and transport of aqueous ammonia and emission of particulate matter and nitrogen oxides; and
4. The proposed power plant would not be in harmony with applicable General Plan policies that seek to "promote and protect the appearance of the Business and Technology Corridor to encourage quality development" in that the 6.2-acre site proposed for the power plant is near the eastern edge of the industrial area of the City abutting residential areas that would be more appropriately developed with emerging and higher technology businesses that tend to cluster and generate higher paying jobs. Also, such uses would have higher numbers of employees than the expected 15-20 employees anticipated for operation of the plant, which would be more appropriately served by the direct connection along Clawiter Road to State Route 92, an intersection planned for upgrades as stated in the General Plan.

BE IT FURTHER RESOLVED that based upon the forgoing findings, the City Council hereby determines that the proposed power plant is not consistent with the City's General Plan Policies and Industrial Zoning District provisions.

BE IT FURTHER RESOLVED, that the City Council hereby directs staff to communicate the findings and determination contained in this resolution to the California Energy Commission and work with legislators to assure that the proposed project will not adversely impact the citizens of Hayward.

IN COUNCIL, HAYWARD, CALIFORNIA March 13, 2007

ADOPTED BY THE FOLLOWING VOTE:

AYES:	COUNCIL MEMBERS:	Rodriquez, Quirk, Halliday, Dowling, Henson
	MAYOR:	Sweeney

NOES:	COUNCIL MEMBERS:	None
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ABSTAIN: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: Ward

ATTEST: *Regina Papp*  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

*M. J. Smith*  
City Attorney of the City of Hayward