FINAL ENVIRONMENTAL IMPACT REPORT

MT. EDEN ANNEXATION PROJECT

SCH # 2003122009

Lead Agency
City of Hayward

Prepared by City of Hayward

AUGUST 2004

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Introduction

A Draft Environmental Impact Report (DEIR) for the proposed project was prepared and distributed in May, 2004. The project proposes annexation of three unincorporated "islands" of property to the City of Hayward. The City of Hayward also proposes to prezone these properties consistent with current Hayward General Plan land use designations. The properties encompass approximately 118 acres of land in three subareas, as follows:

> Saklan Road, which contains 62 acres of land with 110 parcels of record. The largest of the three islands, the Saklan Road area contains a mix of detached single-family residences, undeveloped residential lots, warehouses and industrial operations.
>
> Depot Road, consisting of 41acres of land with 13 separate parcels. The Depot Road area contains several automobile wrecking/dismantling yards and is the most westerly of the three island areas.
>
> Dunn Road, which is the smallest of the islands and contains 15 acres of land located along Dunn Road west of Clawiter Road. The Dunn Road area contains 29 parcels of land that have been developed with a mix of industrial and storage uses, along with a few detached single-family residences.

A full description of the proposed project is contained in the DEIR document.

Under the California Environmental Quality Act (CEQA) and implementing CEQA Guidelines, after completion of the Draft EIR, lead agencies are required to consult with and obtain comments from public agencies and organizations having jurisdiction by law over elements of the project and to provide the general public with an opportunity to comment on the Draft EIR. Lead agencies are also required to respond to substantive comments on environmental issues raised during the EIR review period.

As the lead agency for this project, the City of Hayward held a 45-day public review period between May 5 and June 21, 2004. In addition, the Hayward Planning Commission held a noticed public hearing on the DEIR on June 10, 2004.

This document contains three sections. The first section contains all public comments received during the 45-day public review process regarding the DEIR and responses to those comments. Included within the document is an annotated copy of each comment letter, identifying specific comments, followed by a response to those comments. The second section contains clarifications and minor corrections to information presented in the DEIR, including revisions to language in impact statements and mitigation measures and revised figures. The third section contains a revised summary table of environmental impacts and mitigation measures, reflecting changes to impacts and mitigation measures in the DEIR.

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List of Comment letters

Comment letters were received by the City of Hayward during the 45-day public comment period on the DEIR from the following agencies, organizations and other interested parties.

	Commenter	Date	Page Number
Public Meetings			
1	Hayward City Council Work Session	5/18/04	9
2	Hayward Planning Commission Public Hearing	6/10/04	13
State Agencies			
3	California Department of Transportation - Division of Aeronautics	6/8/04	27
4	California Department of Transportation	6/16/04	31
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8	Hayward Area Recreation and Park District	6/21/04	43
Public Comments			
9	Supervisor Gail Steele	5/18/04	47
10	John Kyle	6/12/04	49
11	Charlie Cameron	6/15/04	55
12	Howard Beckman	6/19/04	57
13	Don Sheppard	6/21/04	65

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Annotated Comment Letters and Responses to Comments

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Master Response—Project/Study Area Analyzed in the Draft Environmental Impact Report

The Mt. Eden Annexation Project involves three unincorporated islands proposed for annexation, being the Saklan Road, Dunn Road and Depot Road islands. The Study Area excludes two other unincorporated islands in the Mt. Eden area, Mohr-Depot and West-Mohr, located south of West Street and north of Depot Road. The reasons for excluding the two referenced islands from the Project/Study area are explained in Section 5.4 (Alternatives Considered but Rejected) on page 78 of the Draft Environmental Impact Report (DEIR).

Several comments received on the DEIR encourage inclusion of the excluded two islands in the Project/Study Area and express concerns about the availability of future funds to finance public infrastructure improvements in these islands. This reply is provided in response to those comments.

The issue of whether to annex the other two unincorporated islands at this time rests ultimately with the Local Agency Formation Commission of Alameda County (LAFCO), the body responsible for acting on annexation requests. However, the City and County are currently working together to seek annexation of the other two islands in a subsequent phase of annexation in the near future. Approval of the annexation of three islands by LAFCO as currently proposed would not preclude subsequent annexation of the remaining two islands in a later phase, though additional environmental review would be required.

The concern regarding availability of future funds to finance public infrastructure improvements in the excluded islands is not an environmental issue to be addressed in this EIR. However, the City will be providing LAFCO a Plan for Provision of Municipal Services for the proposed annexation area, which will address such issues.

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City Council Work Session of May 18, 2004

City Council Member Comments
Regarding the Mt. Eden Annexation Project DEIR

Council Member Jimenez

- Having the area fully served by the City's fire department, given the close proximity of City Fire Station #6, will be a more favorable condition than currently exists. 1.1

Council Member Ward

- Regarding soil and groundwater contamination mitigation (measure 4.2-1), it would seem to be more appropriate to require site analyses to be completed sooner than prior to issuance of grading or building permits, such as during planning review. 1.2
- Clarify what is required of developers per the law and what should be encouraged, in terms of working with the Hayward Unified School District regarding mitigation for impacts to schools. 1.3

Council Member Dowling

- Since the Industrial Assessment District (IAD) is not a fully funded project, other improvements should also be considered to mitigate impacts to the Hesperian Boulevard/West Winton Avenue intersection. 1.4
- Concern about impacts of having the proposed LM (Light Manufacturing) pre-zoning for the Saklan Road island; maybe City should consider residential pre-zoning. 1.5
- Staff should make sure and respond to comments to the notice of preparation from LAFCO in the DEIR. 1.6

Council Member Henson

- Agree with Councilmember Dowling's comment regarding the IAD improvements and considering other improvements for mitigation. 1.7
- Appreciate having specific numbers on school impacts in the DEIR. 1.8

Council Member Halliday

- Concern about project impacts on Mt. Eden High School. Will new high school be needed and, if so, the DEIR should identify a site for it. 1.9
- Regarding parks, should specific new park sites be identified in the DEIR that are determined to be needed? 1.10

Mayor Cooper

- The avigation easement should do more than provide formal notice to future residents of the proximity of the airport, and should include other provisions, such as soundproofing homes, air conditioning, etc. 1.11
- The IAD improvements, particularly the Whitesell Street extension to Cabot Boulevard, should be done sooner rather than later. 1.12

Comment (Notes) 1: Hayward City Council Work Session, May 18, 2004

- Comment 1.1: Council Member Jimenez noted that having the area served by the Hayward Fire Department will be a more favorable condition than currently exists.

  Response: This comment is acknowledged and no further response is needed.

- Comment 1.2: Council Member Ward noted that mitigation for soil and groundwater contamination (Mitigation Measure 4.2-1) would seem to be more appropriate to be completed sooner rather than prior to building or grading permits.

  Response: Mitigation Measure 4.2-1 has been amended to require soil and water mitigations to be undertaken as soon as possible in the development review process. The revised wording of this Mitigation Measure is found in the following FEIR section entitled "Corrections and Modifications to the Draft EIR."

- Comment 1.3: Council Member Ward asked for clarification regarding what is required of developers per the law and what should be encouraged in terms of working with the Hayward Unified School District to mitigate future school impacts.

  Response: Under SB 50, developers are only required to pay school impact fees in effect at the time building permits are requested, which are considered, by law, as full mitigation for school impacts. The City of Hayward could encourage future developers in the Project area to work with the school district to provide additional mitigation for school impacts.

- Comment 1.4: Council Member Dowling asked that other improvements be considered to mitigate impacts to the Hesperian Boulevard/West Winton Avenue intersection in addition to the Industrial Assessment District (IAD), since this is not a fully funded project.

  Response: Refer to the subsequent "Corrections and Modifications" section, item 7, which discusses alternative interim roadway improvements to relieve congestion at the West Winton Avenue /Hesperian Boulevard intersection

- Comment 1.5: Council Member Dowling noted a concern about the proposed LM (Light Manufacturing) prezoning for the Saklan Road island area. The City should consider residential prezoning for this area.

  Response: This alternative land use could be considered, however, it would also necessitate an amendment to the General Plan Land Use Diagram to change the land use designation for these properties and would be inconsistent with the recommended designation in the Mt. Eden Neighborhood Plan, which sought to establish a buffer between the industrial uses to the west and the residential uses to the east. Other impacts would also need to be re-assessed, including but not limited to hazards, noise and traffic.

- Comment 1.6: Council Member Dowling noted that staff make sure and respond to responses to the Notice of Preparation received from LAFCO.

  Response: LAFCO concerns identified in the response to the Notice of Preparation have been addressed in the DEIR and responses to the comments received from LAFCO on the DEIR are included later in this document.

- Comment 1.7: Council Member Henson agreed with Council Member Dowling's comments (Comment 1.4) regarding the IAD improvements and considering other improvements for mitigation.

  Response: Refer to Response to Comment 1.4.

- Comment 1.8: Council Member Henson appreciated specific numbers on school impacts in the DEIR.

  Response: Comment acknowledged and no further response is required.

- Comment 1.9: Council Member Halliday raised a concern about project impacts on Mt. Eden High School and asked if a new high school will be needed and if so, indicated the DEIR should identity a site for it.

  Response: Table 6 in the DEIR identifies a current overcapacity of 338 students at Mt. Eden High School. Table 7 notes that potential buildout of the residential component of the Project area could generate up to 100 new high school students, which is not typically a number that would generate the need for a new high school. The appropriate planning agency for a new high school is the Hayward Unified School District.

- Comment 1.10: Council Member Halliday asked if new park sites should be identified in the DEIR.

  Response: The proposed Project involves prezoning and annexation of three unincorporated islands. While planning for new parks in the Project is primarily the responsibility of the Hayward Area Recreation and Park District with the assistance of the City, revised Mitigation Measure 4.7-1 suggests an additional potential location for an expanded or new park site within or adjacent to the Project vicinity.

- Comment 1.11: Mayor Cooper noted that an avigation easement should do more than provide formal notice to future residents regarding the proximity of the airport and should include other provisions, such as soundproofing of homes, air conditioning and similar measures.

  Response: As noted in the "Corrections and Modifications" section, mitigation measure 4.4-3 requiring avigation easements has been deleted, since it was determined that no significant noise impacts in the Project area would be generated

due to the airport. However, to address concerns with aircraft noise, the related discussion section was expanded to indicate avigation easements would be required of future development, as a means to provide notification and disclosure of the nearby airport operations. In addition to avigation easements, future residential projects proposed in the Project area could be required to submit acoustic analyses that could mandate noise attenuation measures mentioned in the comment.

- Comment 1.12: Mayor Cooper said that IAD improvements, particularly the Whitesell Street extension to Cabot Boulevard, should be done sooner rather than later.

  Response: Refer to the "Corrections and Modifications" section, Item 7.

MINUTES

REGULAR MEETING OF THE PLANNING COMMISSION, CITY OF HAYWARD
Council Chambers
Thursday, June 10, 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 Chairperson Zermeño, followed by the Pledge of Allegiance.

ROLL CALL

Present:	COMMISSIONERS	Bogue, McKillop, Sacks, Thnay
	CHAIRPERSON	Zermeño
Absent:	COMMISSIONER	Fraas, One Vacancy

Staff Members Present: Anderly, Bauman, Conneely, Looney, Paternaude, Pearson, Rizk

General Public Present: Approximately 20

PUBLIC COMMENT

AGENDA

1. **Variance No. PL-2004-0079 - Signs Designs (Applicant) / Harman Management (Owner)** - Request to Install Two Logo Signs on The Roof of an Existing Fast Food Restaurant (KFC) Where Roof Signs are Prohibited and Where The Height of The Signs Exceed 24" (48" Proposed) - The Project is Located at 1299 W. Tennyson Road, at The Corner of Patrick Avenue **(Continued from May 27, 2004)**

2. **Conditional Use Permit 2003-0153 - Donald Imwale (Applicant/Owner)** - One-Year Extension of Time for a Multi-Tenant Retail Building at the Target Center - The Project is located at the Northeast Corner of Whipple Road

3. **Draft Environmental Impact Report for the Mt. Eden Annexation Study**

PUBLIC HEARINGS

1. **Variance No. PL-2004-0079 - Signs Designs (Applicant) / Harman Management (Owner)** - Request to Install Two Logo Signs on The Roof of an Existing Fast Food Restaurant (KFC) Where Roof Signs are Prohibited and Where The Height of The Signs Exceed 24" (48" Proposed) - The Project is Located at 1299 W. Tennyson Road, at The Corner of Patrick Avenue **(Continued from May 27, 2004)**

Associate Planner Pearson discussed the previous hearing and noted the attached findings and conditions per instructions of the Commission at the May 27 meeting. He commented that the original Conditions of Approval from 1986 are still in effect.

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Chairperson Zermeño noted that all of the conditions requested at the earlier meeting were included.

Commissioner Sacks thanked staff for including the original Conditions with this packet.

The public hearing opened and closed at 7:34 p.m.

Assistant City Attorney Conneely clarified that the application had been approved at the previous meeting and now the Commission would vote on findings and conditions.

Commissioner McKillop thanked staff for coming back so quickly with the conditions and findings.

Commissioner Thnay moved, seconded by Commissioner Sacks, approval for the findings and conditions. The motion passed unanimously, with Commissioner Fraas absent.

2. **Conditional Use Permit 2003-0153 – Donald Imwale (Applicant/Owner) – One-Year Extension of Time for a Multi-Tenant Retail Building at the Target Center – The Project is located at the Northeast Corner of Whipple Road**

Principal Planner Patenaude explained the need for the extension adding that the applicant was available if there are any comments or questions.

The public hearing opened and closed at 7:38 p.m.

Chairperson Zermeño said he was happy with Target and this store as well. He asked also about the Circuit City building and the relocation of the drive-way.

Principal Planner Patenaude noted that Circuit City brought in their application today.

Commissioner Sacks moved, seconded by Commissioner Thnay, to approve the one-year extension of time. The motion passed unanimously, with Commissioner Fraas absent.

3. **Draft Environmental Impact Report for the Mt. Eden Annexation Study**

Associate Planner Rizk discussed the number of meetings held with residents of the area as well as how the information had been disseminated throughout the Mt. Eden area. This meeting was the official DEIR hearing. He noted that this is a program DEIR for the area, other CEQA review may have to be made for any specific projects. He described the annexation area as three islands surrounded by the City of Hayward. No changes to the General Plan land use designations will be made. He commented on the potential development analyzed in the DEIR, which includes 475 potential additional dwellings as well as further industrial square footage. He noted the potential noise and geological impacts as well as the mitigation measures proposed. There would be 7.3 acres of additional parkland needed in the area. As to schools, paying school impact fees or coordinating with the school district would be required for further mitigation. As to the next steps, there will be a public comment period until June 21, 2004. The Final EIR will

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respond to all the comments and public comments. Then a Planning Commission hearing would be scheduled for the end of July with a public hearing of the City Council in the Fall. He noted the purpose of this hearing was to hear comments on the Draft Environmental Impact Report.

Commissioner Sacks emphasized the thoroughness of the report. She asked for staff to address Appendix 8.3 regarding LAFCOs identification of the five islands within the City limits and their encouraged annexation of the remaining two islands in the Mt. Eden area. They expressed concern that the cost of future improvements without annexation in these areas would be infeasible. She then asked staff to discuss why they were not going for all five islands. 2.1

Associate Planner Rizk noted strong neighborhood opposition to annexation in the other two islands and also that Mohrland Mutual Water Association, a private water company, serves those areas, which could be negatively impacted. He noted that development potential is greater in the three islands in the study area, rather than the other two. However, since all five are in the County Redevelopment Area, tax increment funds generated would go into the Redevelopment fund rather than the General Fund. Preliminary analysis shows that there would be sufficient revenues generated to help finance improvements in the study area as well as for the other two islands.

Commissioner Sacks also wondered whether there might be properties, which might need to be condemned within the other two areas if they are not brought into the City of Hayward.

Commissioner McKillop commented that her concerns and questions were similar. Specifically she asked about soil and groundwater contamination and what kinds of measures would be taken so that this is not so toxic. 2.2

Associate Planner Rizk explained that the City has done little since Alameda County Health Department is responsible. Further site investigations once the property is annexed would be determine the levels of contamination.

Planning Manager Anderly added that it would be unusual for the property to be unusable since there are various alternatives to land cleanup. It would just be a matter of cost.

Commissioner McKillop wondered about the cost and whether it would be still be attractive to a developer.

Planning Manager Anderly explained that most of the land is large residential lots and is already inhabited so the problems should not make the land unusable.

Commissioner Thnay said they were assuming that the extension of West A Street, Clawiter Road and Whitsell Street would be completed before the project is constructed; otherwise there will be very congested conditions in that area. 2.3

Associate Planner Rizk said staff is looking at other mitigation measures to address the levels of service at West A Street/Hesperian Boulevard intersection.

Commissioner Thnay said just looking at this level of development with no traffic improvements is almost unimagineable. He then asked whether pedestrian and bicycle ways would be tied into this project for the sidewalk and bike route to the Bay as part of the conditions. 2.4

Deputy Director of Public Works Bauman responded that the City would include gutters, sidewalks and improved pedestrian access. However, there is nothing specifically proposed for a bike route, though bike routes exist in the area.

Commissioner Thnay commented that the island near Chabot College would be a good opportunity for City of Hayward to further enhance the College, perhaps encouraging research and development for the area, rather than light industrial. 2.5

Chairperson Zermeño asked how the number of 475 for residential housing was derived.

Associate Planner Rizk said the General Plan land use designation of Medium Density was applied and staff took a middle range.

Chairperson Zermeño then asked about the extension of Corsair and how far that might be into the future.

Deputy Director of Public Works Bauman explained that some funding is available and the City is looking for more money so they cannot put a date on it for now.

Chairperson Zermeño then asked about widening Clawiter Road between Depot and Route 92.

Deputy Director of Public Works Bauman noted it was not part of the circulation element of the General Plan.

Chairperson Zermeño commented that some residents in the other two islands seem to be opposed to annexation.

Associate Planner Rizk explained that residents in these two areas appeared less supportive of annexation than the residents in the other islands.

The public hearing opened at 8:08 p.m.

Ashim Bassam asked how long the process would take and when it will be complete. He is trying to lease property in the area for a business.

Associate Planner Rizk said they anticipate that this will be heard by LAFCO possibly early next year. It will entail approving, and then executing and recording the documents. The next stage will be funding public improvements and making those improvements. It could take a year or more. He then suggested he could sit down with Mr. Bassam to better explain about the process.

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Jackie Bertillion lives in the area not being considered. She noted that they do want to hang onto their precious pristine water. She expressed concern about children in the other areas who would be traveling through the undeveloped area. 2.6

Don Shepherd explained that the reason for excluding the two islands was that the water company providing the water could be negatively effect. He assumed the assumption was a negative effect on the water company and the people. He agreed that people would be mad if the water company didn't exist. He suggested the Commission ask staff. 2.7

Chairperson Zermeño asked if he was in favor of annexation.

Mr. Shepherd said the residents just found out last month about tax increment financing which might pay for the infrastructure. In October, they voiced opposition to the inclusion, adding that they are now polling people to find out if they would like to be included. 2.8

Fred Sullivan has lived in the Mt. Eden area for 72 years. Ten years ago an effort was made to annex the area. Tennyson and South Garden areas were included. It was cost prohibitive at that time so they stopped the effort to be included. No one knew they had the option of an election. He said they thought they had settled this matter for all time. It would have meant forming assessment districts at a cost to each resident of $470 a month. They formed committees to fight the annexation this time but since then in the last month, residents have discovered the tax increment policy. He stated they had never known anything about it. The County Planning Commission gave them a booklet. They would like to be included at this point. They need things like fire plugs, and sewers. The large tracts in their area have already been developed, including the nursery. These were annexed to the City and new homes are there. In their area, no land is left to develop. He noted that they have been working with Supervisor Gail Steele, and now many of the residents want all five islands to be included. 2.9

Sandra Lovell representing Mohrland Mutual Water Association, said the last time this went around they found themselves within the City of Hayward. The City Council promised that if owners would agree to the landuse, all the improvements would be paid for by the developer. Staff and the developer then made an agreement to put a time limit on the requirement for infrastructure improvements and conditioned it, only if the entire island was annexed. Mohrland got improvements by standing their ground against a developer at that time. She stated that they were not being told the truth again. If they are annexed, the City should take all five islands and give everyone the improvements. Developers want development in the other side. The residents want to be a part but don't want their say taken away. 2.10

Chairperson Zermeño suggested that staff has had meetings in the area. He would try to get another meeting arranged.

Ms. Lovell said she had been at all of them and will continue to go to all the meetings.

Marilou June Kerns asked about the projected 475 homes and saying it was not believable to say there would be no significant transportation impacts. She asked whether those residents in the islands that are both included and not included would have to get off of Mohrland Water and asked what does that mean. 2.11

Associate Planner Rizk explained that as long as no redevelopment on the property occurs, the City will not require connection to the City's water system. Only if there is redevelopment or intensification of use, will that be required. He indicated that if it the other two islands are annexed and improvements installed the properties would then have access to the City of Hayward's water system, which might improve the chances for redevelopment which might then undermine the Mohrland Company as people connect to the City's water system.

Ms. Kerns suggested that since the schools are at or near capacity, she thought there was mention made at a previous meeting of the possibility of a new school. 2.12

Gail Steele said she was speaking for the people of the area. She said she attended the City Council workshop and said to them as she was tonight, that she thinks the City should pursue annexing the whole five islands. She emphasized that there had been a lot of misinformation. LAFCO has a policy of no islands. She urged the City to slow it down, they have done the EIR. She suggested taking the time to find out whether the rest of the community wants to come in. One of the reason for the residents of the two excluded island pulling in now is that they discovered the possibility of tax increment financing for the improvements, and that redevelopment might work out with the residents. She emphasized that there is one more issue, some people need to have their property grandfathered in. She suggested that the City find out how many need to be taken care of. The Fry property for example, they should be able to keep their land and not be pressured to subdivide. She suggested it is comparable to the Old Highlands with the issue of sidewalks, etc. and asked why not make it unique. Many of these properties could be brought into conformance as the area develops and property is sold. She urged everyone to take the time and work together to make everyone happy. 2.13

Commissioner Sacks asked whether, if the two islands stay out, would not that be proof of their individuality.

Supervisor Steele noted that any land under 75 acres could be taken in by the City and now is the time to work together. She indicated that the Mayor had said previously that the City can take the land without a vote and urged not to do that. She said money would come into Hayward with the redevelopment and she urged everyone to work together. It is a delicate thing. There is a lot of anger from those residents so it might help to be sensitive to their issues.

Commissioner Thnay then asked her for a realistic assessment of the process.

Supervisor Steele suggested spending the summer finding out whether people in these areas would like to be included. Staff could then come back in September to authorize a supplemental EIR which in turn could go in to LAFCO. Again she urged the City of Hayward to try to get everyone included. She offered to help facilitate the meetings and do mailings adding that she would cooperate. Her appraisal for the processing time was probably by the end of year.

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Richard Brenkwitz expressed concern with another 475 homes to built in the area. He asked whether City Manager Armas meant that by 2009 all of the property in the area would be developed or was that a percentage of that property. 2.14

Associate Planner Rizk said a consultant was hired to do a fiscal impact study and it was assumed that by 2009, the hundred or so homes there would stay and the analysis assumed the value of the existing homes. He reiterated that the 475 number was for the purposes of an impact assessment of EIR.

Mr. Brenkwitz also suggested that with the 450 homes, there would be more traffic. He owns property on Middle Lane and said it will have to be widened. Will City buy it or will property owners have to donate it.

Deputy Director of Public Works Bauman said one of the improvements calls for widening of Middle Lane. Owners always will be reimbursed for the fair market value of the property. He admitted there might be some dedications, there will be appropriate reimbursements.

Commissioner Bogue said people are still confused about what happens. There was talk at the last community meeting that a developer would come in ahead and build infrastructure. He asked what happens to a resident on existing property to which improvements are made and indicated no one is being forced to sell under an annexation plan nor under a developer plan. 2.15

Allen Bertillion thanked Gail Steel, saying it was good to listen to the residents in the area. He noted that he has been a resident to the area 30 years and is a newcomer. They were set up with their water system prior to Hetch-Hetchy and their water is a treasure. There are other cities with overlapping water systems, so that should not be a problem. At one of the first meetings, they were anticipating a fight. He said the Council was surprised by the turnout. At the first meeting, they thought it would be the same as it was 10 years ago with costs of $30-40,000 a year. He said the City staff told us the procedure and they were not listening but just telling. The City then cut us out because we were hostile because we did not have all the information we needed. People are now having a change of heart. He believed they need additional time to negotiate with the City. 2.16

The public hearing closed at 8:52 p.m.

Commissioner Bogue asked about the tax increment funding clarifying that it was created by the County Redevelopment Agency and can go to any island for improvement which could be taken from all five areas.

Associate Planner Rizk explained that the County Redevelopment Area Project requires spending money generated in a subarea to be spent in that subarea.

Commissioner Sacks thanked the public for attending. She added that it was a pleasure to deal

with adults with respect.

Chairperson Zermeño recognized that the Commission was not taking a vote on this issue today, but wondered how strongly the members could recommend holding another meeting or two.

Associate Planner Rizk said another public meeting is scheduled for July which staff will try to hold at Ochoa Middle School where previous meetings have been held.

Commissioner Thnay said it seems like the extension of time is necessary. The reason the City of Palo Alto has character in terms of their housing and streets is because of the process and citizenry, which is involved in the process, which should dictate how the City of Hayward looks. He said he was glad to see these people who want to see Hayward stay unique and be involved. In the end it is always a better product.

Commissioner Bogue emphasized the need for parks in the area and that the Neighborhood Plan talks about expanding Greenwood Park. If that property is not available, another park is needed. 2.17
He suggested not to just collect in-lieu fees but to create a new park since open space needs to be provided for the neighborhood.

Chairperson Zermeño spoke about Rancho Arroyo Park and wondered if that can be expanded. If it cannot, he suggested looking for new park sites. He also spoke in favor of annexing all five of the islands. He was glad many of the residents are expressing an openness to talking. He said he 2.18
did not like the concept of islands. He noted that half of Chabot College's tract is part of one of the islands. As to Fry's mansion, look to annexing it into Chabot College for a faculty club. He thanked everyone for coming.

Commissioner Bogue emphasized that people should be able to stay in their homes no matter what is proposed.

Commissioner McKillop also thanked everyone for coming. She said she knows more about the annexation as a result. She too would like to see the five islands annexed. She suggested that staff 2.19
take some time to make this happen. It would be better for the City.

Associate Planner Rizk said he appreciated the Commissioners' comments.

ADDITIONAL MATTERS

4. Oral Report on Planning and Zoning Matters

There were no oral reports.

5. Commissioners' Announcements, Referrals

Commissioner Sacks commented on a building under construction on Main Street between B and C, which appears to be unfinished. She noted in particular the utilities on the front of the building next to the sidewalk.

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Commissioner Bogue reported a conversation with a resident who was concerned about traffic movement on Hesperian at Depot Road, with particular regard to the left turn lanes.

Assistant Public Works Director Bauman said he would check into it.

Chairperson Zermeño congratulated someone for fixing the gazebo on Hesperian near Chabot. He asked about the progress of the Pollo Loco, saying he ran into the owner who seemed hesitant to discuss it.

Principal Planner Patenaude explained that they were close to issuing a building permit but there are some issues with signage at the location.

Commissioner McKillop again announced an upcoming fundraiser for the Kids Breakfast Club this Saturday at Numanali on B Street.

APPROVAL OF MINUTES

- May 27, 2004

ADJOURNMENT

The meeting was adjourned by Chairperson Zermeño at 9:05 p.m.

APPROVED:

Christopher Thnay, Secretary
Planning Commission

ATTEST:

Edith Looney
Commission Secretary

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Comment 2 (minutes): June 10, 2004 Hayward Planning Commission Public Hearing

- Comment 2.1: Commissioner Sacks asked about the five islands within the City limits and the potential annexation of the two island areas not proposed for annexation.

  Response: See Master Response regarding Project boundaries.

- Comment 2.2: Commissioner McKillop asked about soil and groundwater contamination of the area and what measures that would be taken so this would not be so toxic.

  Response: The proposed Project only includes prezoning and annexation of the three island areas, along with associated public infrastructure improvements. If future development of the properties were to be pursued, additional soil and groundwater analyses will be required pursuant to Mitigation Measure 4.2-1 to ensure that any contaminated areas are cleaned up to regulatory agency standards.

- Comment 2.3: Commissioner Thnay said that the Commission is assuming the extension of West A Street, Clawiter Road and Whitsell Street would be completed before the project is constructed. Otherwise there would be very congested traffic conditions.

  Response: The proposed Project only involves annexation and prezonng of the three island areas, along with associated public infrastructure improvements. Future development in the project areas will be reviewed by the City to assure that significant traffic impacts would not be created and to require future developers to contribute to the extension of local roadways and related traffic improvements. Also, see response to Comment 1.4 and item 7 in the following "Corrections and Modifications" section regarding the referenced improvements and interim intersection modifications.

- Comment 2.4: Commissioner Thnay asked if pedestrian and bicycle ways would be installed as part of the City-wide system that would provide a route to the Bay as part of conditions.

  Response: Since the Project involves annexation and prezoning, no pedestrian or bikeway improvements are proposed. Class III bike routes are currently in place along Middle Lane and Clawiter Road. The City's Bicycle Master Plan does provide for an interconnected system of routes through the community that should be adequate for bicyclists in the area and throughout Hayward.

- Comment 2.5: Commissioner Thnay noted that the island near Chabot College would be a good opportunity for the City to enhance the College, perhaps encouraging research and development for the area rather than light industrial.

Response: The proposed LM prezoning for the western portion of the Saklan Road island would allow research and development type uses.

- Comment 2.6: Jackie Bertillion stated they do not want to lose their pristine water. A concern was expressed about children in other areas who would be traveling through the undeveloped area.

  Response: Based on information provided by the Hayward Public Works Department, existing customers of the Mohrland Mutual Water Association will be allowed to maintain water connections with this provider. However, redevelopment or intensification or change of use on any parcel within the Project area will trigger the requirement to connect to the Hayward water system for domestic water use, though properties would be allowed to continue to use the Mohrland Water system for irrigation purposes, provided proper backflow prevention devices are installed.

  The Project is not expected to generate any significant impacts regarding children traveling through the Project area on their way to school. Many properties in and adjacent to the Project area have sidewalks and other paths so that people may safely travel through the Project area. Also, if the area is annexed into the City, streets will be upgraded, including installation of sidewalks along some or all of the streets.

- Comment 2.7: Don Sheppard stated that the reason for excluding the two islands was that the private water company (Mohrland Mutual Water Association) would be negatively affected upon annexation to the City.

  Response: Refer to Response 2.6, above, regarding potential impacts related to the private Water Association.

- Comment 2.8: Don Sheppard said that local owners just found out that tax increment financing could be used to fund infrastructure. Property owners who have been against the annexation may now favor this and he suggested new polling occur.

  Response: Comment noted. See the Master Response regarding Project boundaries. Since this is not a comment on environmental topics, no further response is required.

- Comment 2.9: Fred Sullivan said that property owners in the area had opposed annexation for a long time, primarily because of the cost to provide infrastructure. Based on new information provided by the County, many of the residents of the five island areas may want to be included.

  Response: See the Master Response regarding Project boundaries. The comment regarding infrastructure financing is noted and no further response is required, since this is not a comment on an environmental topic.

- Comment 2.10: Sandra Lovell said that previous annexation attempts were accompanied by Hayward City Council promises that needed infrastructure would be paid by developers. If annexation is to occur now, all five islands should be taken.

Response: See Master Response regarding Project boundaries.

- Comment 2.11: Marilou June Kerns said that it is not believable that future development of 475 homes would not result in significant traffic impacts. She asked about the status of Mohrland Water Association customers.

  Response: Table 5 contained in the DEIR notes that construction of potential development that could occur under the proposed annexation would not significantly degrade traffic operations at intersections near the Project area once IAD or similar improvements are made.

  Please refer to the response to Comment 2.6 regarding potential impacts to Mohrland Water Association customers.

- Comment 2.12: Ms. Kerns suggested that schools are at capacity, she thought there was a mention of a new school.

  Response: The proposed Project involves annexation and prezoning. No schools are included in the Project. Also, see response to comment 1.9.

- Comment 2.13: Gail Steele thinks the City should annex all five unincorporated islands. This would be consistent with LAFCO policy. The City should slow down the process to find out what the rest of the community wants to do.

  Response: Refer to the Master Response regarding Project boundaries.

- Comment 2.14: Richard Brenkwitz expressed concern about another 475 homes to be built. He asked the City Manager how much of the property would be developed by 2009. He also noted that there would be more traffic with additional development and that Middle Lane would need to be widened. He asked if the City will buy it or will property owners need to donate the land?

  Response: The City has no development schedule for the annexation area, even though certain assumptions were made for purposes of a fiscal impact analysis.

  The DEIR notes that although traffic would increase on streets in and near the Project site, with the construction of certain improvements being planned in the Industrial area, such impacts are expected to be less-than-significant. Middle Lane will be required to be widened and the City anticipates that such owners will be compensated for purchase of needed right-of-way.

- Comment 2.15: Commissioner Bogue indicated that people are confused about the Project, specifically if there was a developer who would come in and build infrastructure. What would happen to residents on existing property to which improvements are being made.

Response: The proposed Project only includes annexation of the three islands and prezoning of the properties at this time. Future development could occur within the island areas following annexation. Various options exist for funding infrastructure, including developer financing or tax increment financing. No one would be forced to sell their property upon annexation. The City would need to purchase any property needed for street widenings.

- Comment 2.16: Allen Bertillion reiterated the history of previous annexation attempts and noted that residents need additional time to negotiate with the City.

  Response: See Master Response regarding Project boundaries.

- Comment 2.17: Commissioners Bogue emphasized the need for parks in the area and the Neighborhood Plan talks about expanding Greenwood Park. Another park may be needed as well. He suggests not to collect in-lieu fees, but to create a new park since open space needs to be provided in the area.

  Response: The Project includes annexation and prezoning of three island areas. Provision of future parks could be negotiated with developers if and when future development projects are proposed. Provision of parks must be planned in conjunction with the Hayward Area Recreation and Park District. Potential park sites within or adjacent to the Project area are discussed in the following section under Revised Mitigation Measure 4.7-1.

- Comment 2.18: Chairperson Zermeno spoke about the potential expansion of Rancho Arroyo Park and expressed an opinion that all five islands be annexed. He also reiterated the history of previous annexation attempts and noted that residents need additional time to negotiate with the City.

  Response: See Revised Mitigation Measure 4.7-1 in the following section regarding parks. Rancho Arroyo Park could not be expanded without utilizing existing Ochoa Middle School grounds, but it could be enhanced with additional facilities. Regarding Project boundaries, see the Master Response.

- Comment 2.19: Commissioner McKillop said she would like to see all five islands annexed.

  Response: See Master Response regarding Project boundaries.

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF TRANSPORTATION
DIVISION OF AERONAUTICS – M.S.#40
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Flex your power! Be energy efficient!

June 8, 2004

Mr. David Rizk
City of Hayward
777 B Street
Hayward, CA 94541

Dear Mr. Rizk:

Re: City of Hayward's Draft Environmental Impact Report (DEIR) for the Mt. Eden Project; SCH# 2003122009

The California Department of Transportation (Department), Division of Aeronautics, reviewed the above-referenced document with respect to airport-related noise and safety impacts and regional aviation land use planning issues pursuant to the California Environmental Quality Act (CEQA). The Division of Aeronautics has technical expertise in the areas of airport operations safety and airport land use compatibility. The Division is a funding agency for airport projects and has permit authority for public use airports. We offer the following comments for your consideration.

1. The City of Hayward is proposing to pre-zone and annex three unincorporated properties south of the Hayward Executive Airport. These properties include 41-acre Depot Road, 15-acre (mostly industrial) Dunn Road and 62-acre Saklan Road. The Saklan Road sub-area is closest to Hayward Executive Airport and contains a mix of detached single-family residences, undeveloped residential lots, warehouses and industrial operations. At less than a half-mile to the south, Saklan sub-area is beneath the aircraft traffic pattern for Runway 10R-28L. 3.1

2. Since all three properties are within the Alameda County Airport Land Use Commission (ALUC) General Referral Area for Hayward Executive Airport, the proposal should be submitted to the ALUC for a consistency determination. The proposal should also be coordinated with airport staff to ensure that the project will be compatible with future as well as existing airport operations. 3.2

3. According to the DEIR, an avigation easement will be required for all three properties. We concur. Recently enacted legislation AB 2776 (amended Section 3.3

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11010 of the Business and Professions Code and Sections 1102.6, 1103.4, and 1353 of the Civil Code) changed buyer notification requirements for lands around airports. According to the new law, any person who intends to offer land for sale or lease within an *airport influence area* is required to disclose that fact to the person buying the property. The Department's Airport Land Use Planning Handbook (Handbook) provides an example of a typical avigation easement in Appendix D of the Handbook. CEQA, Public Resources Code 21096, also requires the Handbook be utilized as a resource in the preparation of environmental documents for projects within airport land use compatibility plan boundaries or if such a plan has not been adopted, within two nautical miles of an airport. The Handbook is a resource that should be applied to all public use airports. The Handbook is published on-line at http://www.dot.ca.gov/-hq/planning/aeronaut/htmlfile/landuse.php.

4. Aviation plays a significant role in California's transportation system. This role includes the movement of people and goods within and beyond our state's network of over 250 airports. Aviation contributes nearly 9% of both total state employment (1.7 million jobs) and total state output ($110.7 billion) annually. These benefits were identified in a recent study, "Aviation in California: Benefits to Our Economy and Way of Life," prepared for the Division of Aeronautics which is available at http://www.dot.ca.gov/hq/planning/aeronaut/. Among other things, aviation improves mobility, generates tax revenue, saves lives through emergency response, medical and fire fighting services, annually transports air cargo valued at over $170 billion and generates over $14 billion in tourist dollars, which in turn improves our economy and quality-of-life. 3.4

5. We strongly feel that the protection of airports from incompatible land use encroachment is vital to California's economic future. Hayward Executive Airport is an economic asset that should be protected through effective airport land use compatibility planning and awareness. Although the need for compatible and safe land uses near airports in California is both a local and a state issue, airport land use commissions and airport land use compatibility plans are key to protecting an airport and the people residing and working in the vicinity of an airport. Consideration given to the issue of compatible land uses in the vicinity of an airport should help to relieve future conflicts between airports and their neighbors. 3.5

These comments reflect the areas of concern to the Department's Division of Aeronautics with respect to airport-related noise and safety impacts and regional airport land use planning issues. We advise you to contact our district office concerning surface transportation issues.

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Thank you for the opportunity to review and comment on this proposal. If you have any questions, please call me at (916) 654-5314.

Sincerely,

Sandy Hesnard

SANDY HESNARD
Aviation Environmental Planner

c: State Clearinghouse
Alameda County ALUC
Hayward Executive Airport

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Letter 3: State Department of Transportation-Division of Aeronautics

- Comment 3.1: The City proposes prezoning and annexation of three unincorporated islands south of Hayward Executive Airport. The Saklan Road sub-area is located one-half mile south of the traffic pattern for Runway 10R-28L.

  Response: This comment is noted and does not contain an environmental comment so no further response is needed.

- Comment 3.2: Since all three areas are within the Alameda County Airport Land Use Commission General referral Area for Hayward Executive Airport, this proposal should be submitted to the ALUC for a consistency determination. The proposal should be coordinated with airport staff to ensure compatibility.

  Response: The DEIR has been referred to the ALUC as part of the public review and the ALUC staff comments are responded to in subsequent pages. Future residential development projects within the Project area will also be referred to the airport staff and ALUC as may be required.

- Comment 3.3: Concurs with requirement for avigation easements for future development. Recent changes to State law (AB 2776) requires buyer notification for property near airports.

  Response: See following section "Corrections and Modification to the DEIR," item 4, where impact and Mitigation Measure 4.4-3 requiring avigation easements has been deleted, since it has been determined after further consideration that no significant noise impacts would occur in the Project area due to the airport. However, as noted under item 3 in that section, text has been added to the DEIR discussion regarding airport noise, indicating avigation easements would be required for development in the future as a formal means of notification of the nearby airport operations.

- Comment 3.4: The Department notes that aviation plays a significant role in California's transportation system.

  Response: This comment is noted. No further response is necessary.

- Comment 3.5: The Department strongly feels that protection of airports from incompatible land use encroachment is vital to the state's economic future.

  Response: This comment is noted. No further response is necessary.

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF TRANSPORTATION
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June 16, 2004

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SCH2003122009

Mr. David Rizk
City of Hayward
Planning Division
777 "B" Street
Hayward, CA 94541

Dear Mr. Rizk:

MT. EDEN ANNEXATION – DRAFT ENVIRONMENTAL IMPACT REPORT

Thank you for including the California Department of Transportation (Department) in the environmental review process for the Mt. Eden Annexation project. The following comments are based on the Draft Environmental Impact Report (DEIR). Additional comments may be forthcoming pending completion of our review.

Traffic Analysis
Project traffic impacts to the following intersections should be evaluated and included in the DEIR:
State Route 92 at:
- Hesperian Boulevard,
- Industrial Boulevard, 4.1
- Clawiter Road, and
- Interstate 880 at Winton Avenue.

Encroachment Permit
Work that encroaches onto the State Right of Way (ROW) requires an encroachment permit that is issued by the Department. To apply, a completed encroachment permit application, environmental documentation, and five (5) sets of plans, clearly indicating State ROW, must be 4.2
submitted to the address below. Traffic-related mitigation measures will be incorporated into the construction plans during the encroachment permit process.

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See the following website link for more information:
http://www.dot.ca.gov/hq/traffops/developserv/permits/

Sean Nozzari, District Office Chief
Office of Permits
California DOT, District 4
P.O. Box 23660
Oakland, CA 94623-0660

Please feel free to call or email Patricia Maurice of my staff at (510) 622-1644 or patricia_maurice@dot.ca.gov with any questions regarding this letter.

Sincerely,

Susan Carbone

for TIMOTHY C. SABLE
District Branch Chief
IGR/CEQA

c: Ms. Terry Roberts, State Clearinghouse

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Letter 4: California Department of Transportation

- Comment 4.1: The DEIR should address traffic impacts to the following intersections: SR 92 at Hesperian Boulevard, Industrial Boulevard, Clawiter Road and I-880 at Winton Avenue.

  Response: The City has reviewed future traffic conditions at the three closest intersections to Hesperian/Route 92 (Hesperian/Cathy-Depot), Industrial/Route 92 (Industrial-Depot) and Clawiter/Route 92 (Clawiter-Depot). Each of these three intersections would operate well within acceptable conditions (LOS C or better) with the addition of project traffic.

  The intersection-specific analysis of the three intersections studied in lieu of those Caltrans has requested indicates very little project-related traffic would pass through the three referenced intersections. For example, in looking at Hesperian/Cathy-Depot, one finds that only 56 AM and 51 PM project-related trips would pass through the intersection. For Industrial-Depot, only 65 AM and 72 PM projected related trips would pass through the intersection. Finally, for Clawiter-Depot, 134 AM and 162 PM project-related trips are projected to pass through the intersection. Also, it is anticipated that not all of the project trips would pass through the three SR 92 intersections. The traffic analysis shows that the three intersections that the City of Hayward studied would result in no change in LOS from existing conditions as a result of project traffic.

  The City has also analyzed each of the three Route 92 interchanges identified by Caltrans in the most recent update of the General Plan, adopted in March of 2002. The traffic analysis prepared for that plan indicated that the eastbound and westbound ramps for each of the three Caltrans intersections were all operating at LOS C or better in 2001. As indicated above, the amount of project traffic forecasted to pass through the closest intersections will be limited. Hence, it may be reasonably concluded that project traffic will have limited impact on the three Caltrans interchanges and likely will not degrade the LOS below the acceptable standard of LOS D.

  Regarding the I-880/Winton Avenue intersection, the intersection analysis conducted indicates that the project traffic volumes that would pass through the Hesperian Boulevard/West Winton Avenue intersection would minimally impact the I-880 and Winton Avenue clover leaf interchange. Specifically, the analysis shows that the project would result in an increase of 25 AM and 60 PM westbound through trips at the Hesperian Boulevard/West Winton Avenue intersection. Obviously, not all of these trips would emanate from the I-880 and Winton Avenue interchange, since some trips will likely be generated by Southland Mall and/or from downtown Hayward. Eastbound, the analysis shows that the project results in an increase of 61 AM trips and 57 PM trips. Again, not all of these trips will reach the I-880/Winton interchange since some will terminate at the mall and/or continue eastward toward downtown Hayward. Since it is a full cloverleaf interchange without any signals, these few additional project-generated vehicles would not affect interchange

operations. Caltrans staff has recently confirmed that Caltrans has not done any recent LOS analysis for these interchange ramps, because it is a full cloverleaf without any intersections.

- Comment 4.2: The Department notes that any work that encroaches into SR 92 requires an encroachment permit from Caltrans.

  Response: This comment is acknowledged and the procedures outlined by Caltrans will be followed.

LAFCO

Alameda Local Agency Formation Commission
1221 Oak Street, Room 555
Oakland, CA 94612
(510) 271-5142 FAX (510) 272-3784

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Herbert Crowle
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County Member

Marshall Kamena
City Member

Linda Sheehan
Public Member

Executive Officer
Lou Ann Texeira

May 13, 2004

Mr. David Rizk, Associate Planner
City of Hayward Community and
Economic Development Division
777 B Street
Hayward, CA. 94541

Subject: LAFCo Comments on Draft Environmental Impact Report (DEIR) for the Mt. Eden Annexation (SCH: No. 20033122009)

Dear Mr. Rizk:

Thank you for the opportunity to comment on the DEIR for the Mt. Eden Annexation project. The City's efforts to clarify potential areas of impact and disclose related environmental effects are greatly appreciated.

As Responsible Agency under the California Environmental Quality Act (CEQA), Alameda LAFCo submits the following comments and requests.

1. Please provide a map indicating existing County zoning and General Plan designations. 5.1
2. LAFCo is required to evaluate water supply availability as part of its annexation process. The proposed project appears to require an SB 610 water supply assessment pursuant to California Water Code Section 10912 (a)(6). Please clarify this issue in the DEIR, and provide SB 610 information if required. Also, there is little detail regarding sources of water and short and long-term availability. It would be helpful to include pertinent excerpts from the Urban Water Management Plan or other sources, which document availability, and explain how the 300,000 gallon per day upper limit on available water was calculated. 5.2
3. The term "project area" needs to be clarified. Figure 3.1.2 indicates that the project area and project site (i.e., three unincorporated islands) are the same. However, the text on pages 55-57 appears to indicate in some locations that "project area" refers to the project vicinity rather than the project site. For example, the DEIR indicates that there were 128 police service and 29 fire service calls to the project area in 2003. Sewer and water sections quantify data related to 150 properties. 5.3

4. The City's requirement that all properties within 200 feet of a sewer line connect to the public sewer system appears to provide health and safety related benefits to the subject sites. However, it may also affect the cost for service to existing homeowners. This is a State-required factor, which LAFCo must consider. Is there a process for addressing potential financial hardship to existing homeowners? 5.4

Thank you for your consideration of these comments. If you have any questions, please contact either the LAFCo Planner, Barbara Graichen at (916) 991-2177, or me at (510) 208-3996.

Sincerely,

Lou Ann Texeira
Executive Officer

c: Each Member, Alameda LAFCo
James Sorensen, Director, Alameda County Community Development Agency
Eric Chambliss, LAFCo Legal Counsel
Barbara Graichen, LAFCo Planner

Letter 5: Alameda County Local Agency Formation Commission

- Comment 5.1: Provide a map indicating existing County General Plan and zoning designations.

  Response: See the attached exhibit showing the requested information.

- Comment 5.2: The proposed project appears to require an analysis of water pursuant to SB 610. Please clarify this issue in the DEIR and provide the requested SB 610 analysis.

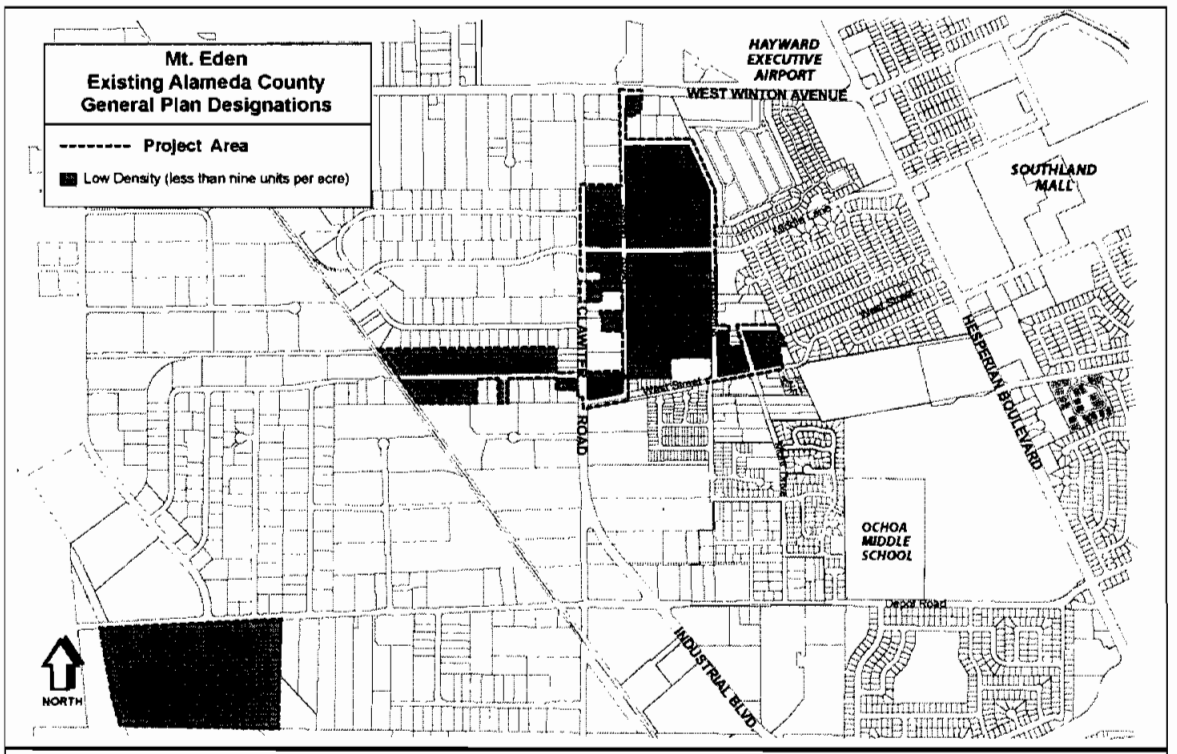
  Response: Because the project is anticipated to provide infrastructure that could lead to development that could generate a demand greater than 500 residential units or 650,000 square feet of industrial space, the project is considered subject to a SB610 analysis. Please see revisions to the impact discussion and mitigation measures related to water demand and supply under item 10 in the following section entitled, "Corrections and Modifications" for such analysis.

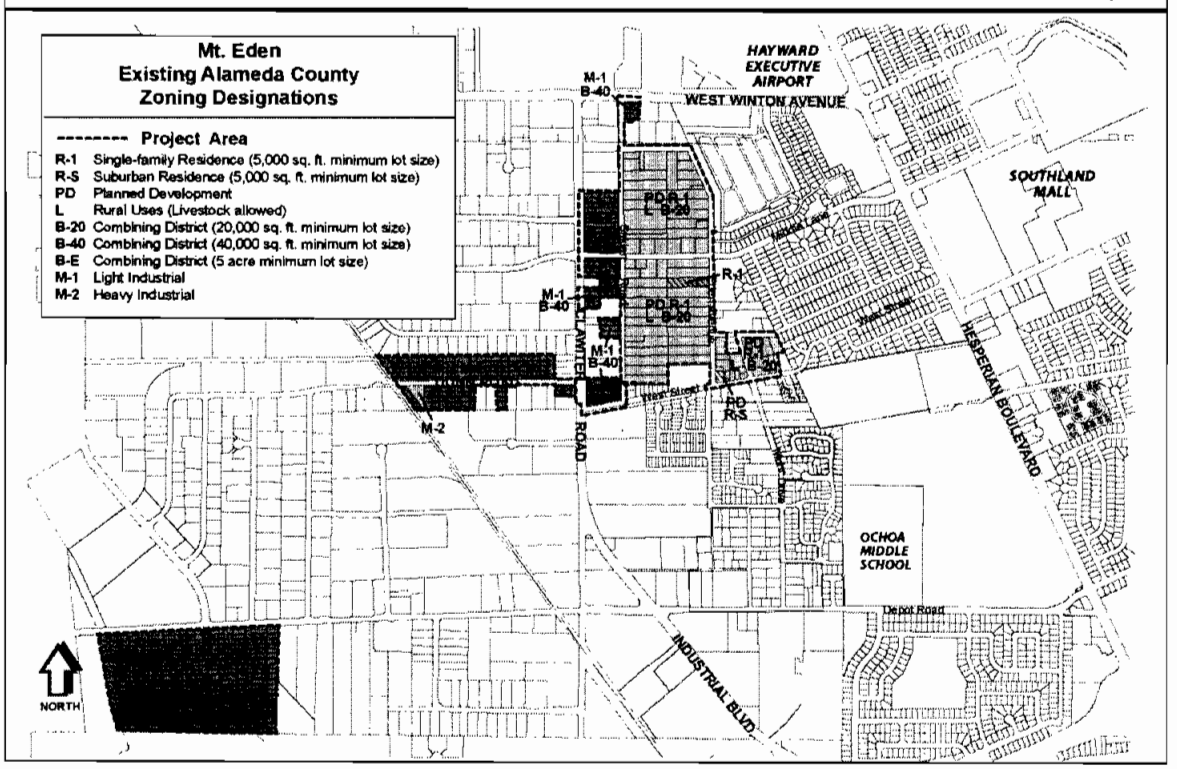
- Comment 5.3: The term "project area" needs to be clarified. Figure 3.1.2 indicates that the project area and project site are the same. However, the text on pages 55-57 suggests that the project area refers to the project vicinity rather than the project site. Also, the DEIR indicates that there were 128 police calls for service to the project area and 29 fire calls for service. The sewer and water sections quantify data for 150 properties.

  Response: Figures 3.1.2 and 3.1.3 depict the Project area for the DEIR. The DEIR text attempted not to use the word "project site," since the term "site" might incorrectly imply that only one property ownership is included in the proposed project, when in fact multiple ownerships are involved. See item 9 in the following section, which identifies clarifications in the DEIR under discussion related to Police protection.

- Comment 5.4: The City's requirement that all properties within 200 feet of a sewer line connect to a public sewer appears to provide health and safety related benefit, however, this might also affect the cost of service to homeowners. This is a State-required factor, but is there a process for addressing potential financial hardship to homeowners?

  Response: The issue of financial hardship is not a CEQA-related issue to be addressed in this EIR. However, such costs will be considered by the City Council during public hearings on the proposed Project and will be reflected in the Plan for Providing Municipal Services when the annexation request is filed with LAFCO.


Mt. Eden
Existing Alameda County
General Plan Designations
Project Area
Low Density (less than nine units per acre)
HAYWARD EXECUTIVE AIRPORT
WEST WINTON AVENUE
SOUTHLAND MALL
HESPERIAN BOULEVARD
OCHOA MIDDLE SCHOOL
INDUSTRIAL BLVD
NORTH


Mt. Eden
Existing Alameda County
Zoning Designations
Project Area
R-1 Single-family Residence (5,000 sq. ft. minimum lot size)
R-S Suburban Residence (5,000 sq. ft. minimum lot size)
PD Planned Development
L Rural Uses (Livestock allowed)
B-20 Combining District (20,000 sq. ft. minimum lot size)
B-40 Combining District (40,000 sq. ft. minimum lot size)
B-E Combining District (5 acre minimum lot size)
M-1 Light Industrial
M-2 Heavy Industrial
HAYWARD EXECUTIVE AIRPORT
WEST WINTON AVENUE
SOUTHLAND MALL
HESPERIAN BOULEVARD
OCHOA MIDDLE SCHOOL
INDUSTRIAL BLVD
NORTH

ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY

PLANNING DEPARTMENT

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PLANNING DIVISION

James E. Sorensen
Agency Director

Chris Bazar
Planning Director

June 21, 2004

David Rizk, Associate Planner
City of Hayward Planning Division
777 B Street
Hayward, CA 94541

SUBJECT: DRAFT Program EIR – Mt. Eden Annexation Project (SCH No. 2003122009)

Dear Mr. Rizk:

Thank you for the opportunity to review the above document. Based on our review and recent developments, please consider the following comments.

The County continues to strongly recommend the annexation of *all* islands that comprise the current Mt. Eden Area. We remain concerned that the cost of providing future improvements to the remaining two island areas would be prohibitive and render any such improvements infeasible. 6

As you are aware, Supervisor Steele has met with residents of the area to discuss the community's willingness to be included in the annexation effort. While initially opposed, the residents of the two islands not included in the proposed annexation are now expressing interest. This is due in part to the possibility that tax increment generated from future development in the areas proposed for annexation could be made available to fund infrastructure needs throughout *all* of the area. As this project moves forward, we encourage the City to continue to work with the County to negotiate a resolution to this issue that is in the best interests of the residents of Mt. Eden.

Very Truly Yours,

Chris Bazar for

James E. Sorensen, Director
Community Development Agency

c: Hon. Gail Steele, President, Board of Supervisors
Jesus Armas, City Manager, City of Hayward
Sylvia Ehrenthal, Community Development Director, City of Hayward
LouAnn Texeira, Executive Director, Alameda County LAFCO
Susan Muranishi, County Administrator
Donald LaBelle, Director, Alameda County Public Works Agency
Mee Ling Tung, Director, Environmental Health
Richard Conway, analyst, County Administrator's Office
Lane Bailey, Director of Operations and Redevelopment, Alameda County Community Development Agency
Chris Bazar, Director, Alameda County Community Development Agency
Cindy Horvath, Senior Planner, Alameda County Community Development Agency

Letter 6: Alameda County Community Development Agency

- Comment 6: The County continues to recommend the annexation of all County islands in the Mt. Eden area. The cost of providing future improvements to the remaining two island areas may be prohibitive and potentially infeasible.

  Response: Refer to the Master Response regarding project boundaries and phasing of annexation.

Alameda County Airport Land Use Commission
224 W. Winton Avenue, Room 111
Hayward, CA 94544
(510) 670-6511

June 21, 2004

David Rizk, Associate Planner
City of Hayward Planning Division
777 B Street
Hayward, CA 94541

SUBJECT: Alameda County Airport Land Use Commission (ALUC) Administrative Review of the DRAFT Program EIR for the Mt. Eden Annexation Project (SCH No. 2003122009)

Dear Mr. ~~Rizk~~: DAVID

Thank you for the opportunity to review the above project. I have completed an initial review and offer the following comments.

This project falls within the General and Height Referral Areas for the Hayward Executive Airport. Please refer to the *Alameda County Airport Land Use Policy Plan* for requirements concerning height of buildings relative to the airport runways.

7

While the project area does not fall within the 65CNEL contour for the airport, the proximity of the project area to the airport may result in noise associated with routine flight operations. Under recent legislation (AB2776), properties that fall within an airport's Airport Influence Area (synonymous with the General Referral Area) will require an avigation easement when that property is offered for sale or lease. The ALUC concurs with the City's intention to fulfill this requirement as stated in the DEIR.

Please do not hesitate to contact me at 510/670-6511 if you have any questions or require additional information as this project moves forward.

Sincerely,

Cindy Horvath, Senior Transportation Planner
ALUC Staff

c: Chris Bazar, Alameda County Planning Director, ALUC Administrative Officer

Letter 7: Alameda County Airport Land Use Commission (ALUC)

- Comment 7: The proposed Project falls within the General and Height Referral area for the Hayward Executive Airport, but it does not lie within the 65 CNEL noise contour for the airport. The proximity of the airport may result in noise associated with routine flight operations. Properties that fall in a Referral area will require an avigation easement when the property is offered for sale or lease.

  Response: Based on this comment letter and further review of the 65 CNEL noise contour level in the Hayward General Plan, Impact 4.4-3 and related Mitigation Measure 4.4-3 are removed from the DEIR. It is clear that the three island areas lie outside of the significant noise contour area of Hayward Executive Airport. This would not prohibit the City of Hayward from requiring future avigation easements at the time property is leased or sold within an airport referral area, as stated in the following "Corrections and Modifications" section, item 3.

HAYWARD AREA RECREATION AND PARK DISTRICT

1099 "E" Street, Hayward, California 94541-5299 • Telephone (510) 881-6700 FAX (510) 888-5756

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2004

PLANNING DIVISION

June 21, 2004

Mr. David Rizk
Associate Planner
City of Hayward
777 "B" Street
Hayward, CA 94541

RE: Mt. Eden Annexation Project Environmental Impact Report Comments

Dear Mr. Rizk:

I would like to thank you for the opportunity to review the Mt. Eden Annexation Project Draft Environmental Impact Report as it pertains to park and recreation issues. I have outlined some of the Hayward Area Recreation and Park District's initial comments.

1) The District is very interested in the expansion of Greenwood Park. The District recommends that more than 1.25 acres be added to Greenwood Park to better accommodate the needs of the surrounding community. 8.1
2) In order to create viable recreation development in this community, the District is seeking larger parcels of property such as the eight (8) acre site indicated on the proposed Mt. Eden Project plan rather than smaller two (2) to three (3) acre sized parcels. With this in mind, why has the eight (8) acre Mohr-Fry estate not been considered as a new park site? 8.2
3) In addition to adding land to Greenwood Park, the District would like to have the developer fund and develop the Greenwood Park extension. 8.3
4) If a large development project occurs in the Mt. Eden Project area, the District would seek to have a homeowner's parkland maintenance assessment district established such as has been done for Twin Bridges Park and the Gordon "E" Oliver Eden Shores Park. 8.4
5) The District would also be interested in the expansion and/or re-development of Rancho Arroyo Park. 8.5

Again, thank you for the opportunity to review the Mt. Eden Annexation Project Environment Impact Report. If you have any questions, please call me at (510) 881-6716.

Sincerely,

Eric Willyerd
Superintendent of Parks

040409MtEdenPlan

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GENERAL MANAGER
Wes Asmussen

Serving Castro Valley, Hayward and San Lorenzo since 1944

Letter 8: Hayward Area Recreation and Park District (HARD)

- Comment 8.1: The District is very interested in the expansion of Greenwood Park and indicates that more than 1.25 acres of land is recommended to be added to this park to better accommodate the needs of the surrounding community.

  Response: The expansion of Greenwood Park is outside the scope of analysis of this Project, which includes annexation and prezoning of the three island areas. The District and City may work with future developers in the Project area to acquire additional land for the expansion of Greenwood Park, including possible improvement of such land, or include this as a capital item in the District budget.

- Comment 8.2: To create more viable recreational development in the area, the District is seeking larger parcels of property, such as the eight-acre site indicated on the Mt. Eden Project plan rather than the 2 to 3-acre sized parcels. Why has the 8-acre Mohr-Fry estate not been considered as a new park site?

  Response: The reference to the 8-acre site in the Mt. Eden Project Plan relates to the site indicated south of Depot Road in the Mt. Eden Neighborhood Plan, adopted in 1990. Most of that site has since been developed with Heald College; however, approximately 3.55 acres of that site remain, which is reflected in revised mitigation measure 4.7-1, as shown under item 11 in the proceeding section "Corrections and Modifications." The Mohr-Fry estate site was not considered as a park in the Neighborhood Plan, but rather using the existing buildings for office use or a conference center.

- Comment 8.3: The District would like to have the developer fund and develop the Greenwood Park extension.

  Response: Although no development is proposed as part of this Project, future development in the Project area would be subject to Mitigation Measure 4.7-1, which would require future developers to either dedicate land or pay in-lieu fees to the District. Using such fees, the District could fund improvements for the proposed Greenwood Park expansion.

- Comment 8.4: The District would seek to have a homeowners parkland assessment district formed for maintenance purposes.

  Response: This issue can best be addressed if and when future residential development projects are proposed in the Project area; however, the two referenced parks are unique in that they are completely surrounded by the associated developments. No development is proposed at this time.

- Comment 8.5: The District would also be interested in the expansion and/or redevelopment of Rancho Arroyo Park.

Response: Future development in the Project area would be subject to Mitigation Measure 4.7-1. Funds raised as a result of this Measure could be used for the redevelopment of Rancho Arroyo Park. This issue is discussed in item 11 of the "Corrections and Modifications to the DEIR" section.

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BOARD OF SUPERVISORS

GAIL STEELE
PRESIDENT
SUPERVISOR, SECOND DISTRICT

Memorandum

Date: May 18, 2004
From: Supervisor Gail Steele
To: Members of Hayward City Council; City Manager

Subject: **Annexation of Mt. Eden Islands into City of Hayward**

I wanted to let you know officially that, as an elected official who represents the Mt. Eden area, I am very concerned about the direction the Hayward City Council is going in continuing to have islands in the Mt. Eden area while supporting the development of other islands. I am at this time speaking for myself and not on behalf of the Board of Supervisors or LAFCO, two boards I serve on which cover Mt. Eden.

I have been meeting with members of the Mt. Eden community to explore their willingness to become a part of the whole annexation program. A number of people have indicated some interest but certainly want the same benefits that the folks in the proposed annexation area are being offered. 9.1

There is of course also the Mohrland Water District to consider, and issues of individual property owners, such as Marian Fry, who have specific concerns about annexation.

In the next couple of weeks before June 10th, which I understand is your hearing on the EIR, we should be able to formally address the City on these subjects.

Finally, I would like to remind you about two formal LAFCO principles. LAFCO strongly discourages, and typically disapproves, boundary changes which result in the creation or maintenance of islands and other irregular boundary lines. LAFCO strongly encourages the annexation of islands less that 75 acres in size, which meet specified criteria. LAFCO policies and procedures provide a streamlined and cost-effective approach to support the annexation of such islands. 9.2

I know the City of Hayward has spent much time on the Mt. Eden annexation process. There is still enough time to work out solutions so that everyone can support a final annexation package. We can all work together to make this happen.

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Letter 9: Gail Steele

- Comment 9.1: Supervisor Steele reported she has been meeting with other members of the Mt. Eden community to explore their willingness to annex all County islands. A number of people want the same benefits as people in the annexation area. The Mohrland Water District should also be considered as well as individual property owners.

  Response: Refer to the Master Response regarding project boundaries and phasing of annexation and response to comment 2.6 regarding Mohrland Water customers.

- Comment 9.2: Two LAFCO principles were identified, including discouraging boundary changes that result in the creation of islands. A second policy includes encouraging annexation of islands of 75 acres.

  Response: This comment is noted. Refer to the Master Response regarding how project boundaries were determined.

RECEIVED

JUN 2004

PLANNING DIVISION

John W. Kyle
22638 Teakwood Street
Hayward, Ca. 94541
Phone (510) 782-7612

June 12, 2004

10

Hayward City Planning Commission
777 'B' Street
Hayward, Ca. 94541

Subject: Annexation of Saklan Rd, Depot Rd and other areas west of Hesperian. Drifting jet fuel pollution.

Ladies and Gentlemen of the Commission;

As I sat and watched the televised meeting of Thursday, June 10th, I heard a staff member explain the list of considerations which must be addressed to satisfy conditions required in CEQA. It was part of his presentation involving the proposed annexation of areas south of Winton Ave, west of Hesperian.

Not too far down from the top of the list was 'noise'. Staff member limited himself to a simple statement to the effect that there was a problem with noise occurring with 'touch and go' flights at the airport. He stated that the solution to 'noise' was the creation of an avigation easement upon the area considered for annexation..

The word avigation has not yet found it's way into Merriam Webster's Collegiate Dictionary nor spell check program associated with MS Works 9. However it can be found in larger volumes of older dictionaries. Well prior to my retirement, as I appraised property of varied zoning use types, I would occasionally encounter use of this noun in title insurance policies involving land located near the approach or departure areas extending from runways above land surfaces not described as being within the boundaries of actively operating airports.

Avigation easements are designed to prevent erection of structures into those air spaces necessary for safe landing approaches by airplanes. Size and height above land surfaces of the usual fan shaped avigation easement is dictated by expected sizes and types of aircraft which make use of the airfield. The easement is usually seen in diagrams as being above land surfaces, positioned as an inclined plane at varying angular degrees of inclination so that as the distance from the end of the runway increases there is potential for other uses above land surfaces, located below the easement. In short, multi-story buildings are often found relatively close to the paved landing strip. Much depends upon the intended weight and lift capabilities of aircraft for which the runway length and strength is designed.

Differing types of aircraft require different depths and angles of approach as an aid to safe use of aviation lands. They are not all encompassing and must be reasonable in application upon nearby uses.

Avigation easements are ineffective as a device for controlling noise. I am not aware of any avigation easement over any residential area of Hayward or San Lorenzo.

As an aside: A famous case occurred with a structure built for lease to Bank of America near the end of

the Buchanan airfield strip at southern end of one or the other of two lengthy runways. Apparently the eleven or 12 story building, when complete was found to extend some 10 or 11 feet into the easement. Somehow, the HVAC system or some similar oversight was placed on the roof where the problem had been compounded by a variation in the site grading plan dictated by soil conditions. It was a problem for jet aircraft which have a low angle of approach due to their size, weight and required touch down speed. I never followed up to learn the result of the lawsuit. The bill had to be large.

The point I wish to make is that to impose such an easement on such a small segment of the community at distances remote from runway 28L especially, at that location, is not warranted as a means of noise control. We here in Hayward have the very last noise ordinance permitted under rule of law as determined in legislation passed by the congress, apparently at insistence of FAA which was annoyed by threat to their Kingdom's province of "Boys and Toys".

Our Hayward noise ordinance is a performance based regulation which requires a pilot to become more fully aware of the capabilities and limitations of his bird. Certain high performance based aircraft are restricted to use of runway 28L or 10R which is the same piece of paving. The number and letter designations are used to indicate the direction at which landings and take off occurs.

You often hear pilots using runway 28R (the short runway on the eastern side of the field) complain about those 'complainers' who fail to recognize the fact that 'we were here first'. The simple fact is that runway 28R (or 10L) was **not** there before the homes were built in the areas east or north of the field' There once had been a cross wind runway which was closed in the 1960's, shortly after 28R was completed. Now we have two parallel runways rather than cross wind runways.

The interesting thing about avigation easements is that they frequently are designed to prevent aircraft from flying too low. Which opens up an interesting idea. I could probably agree to creation of an avigation easement over my own home if the lower limits of flight heights were satisfactory and I was assured of implementation of technology which would enforce observance by helicopters. How about using minimum altitude of eastern most traffic approach pattern (850') right up to a line 100 yards west and parallel to Hesperian? Another line 50 Yards north of W. Winton? Each affecting helicopters only?

There are no avigation easements in my neighborhood although that idea does not seem to prevent helicopters flying at unacceptably low levels. Some fixed wing aircraft have in the past and continue to approach runway 28R in the areas adjoining or above Longwood school. They are frequently unnoticed because fixed wing aircraft have superior glide capabilities which permit a 'power down' or engine idle approach. You notice them most when they suddenly power up the engine (pull out the throttle) because pilot underestimated his needed height.

I DO NOT RECALL EVER READING AN AVIGATION EASEMENT WHICH PERMITTED AIRCRAFT TO FLY AS LOW AS THEY DO OVER THIS RESIDENTIAL AREA WHEN MAKING A LANDING OR TAKEOF FROM THE SHORT RUNWAY. (28R or 10L)

Helicopters are not able to glide to the extent that fixed wing aircraft are capable, yet they frequently fly lower than do the fixed wing aircraft which cheat on any reasonable angle of approach. Monkey see

monkey do attitudes have made life difficult in the Longwood Winton Grove area when Helicopters approach the field. Be aware they NEVER POWER DOWN but are always at full throttle. Because they fly faster and at speed, you would think that the noise monitor on Longwood school ground would record violations. Some of it has to do with the low level of the flights and some has to do with the fact that the noise has to exceed 70 SNEL for 10 seconds or longer before the monitor device is tripped. Lower level of flight by helicopters aids avoidance of detection as roof tops screen noise from monitor reception. Then too, we are limited in numbers of monitor sites.

In addition, the slap noise generated by rotating blades makes a contribution to ambient CNEL noise levels which do not trip the noise monitors but contribute to factors of noise measurement exceeding the ambient permissible areas. Learn that Single Event Noise Level (SNEL) is a bit different from Constant Noise Event level (CNEL). CNEL should not exceed 65 decibels ON THE AIRFIELD. It might also be well to recognize that noise monitors were limited to just four. Two on the golf course, one at Longwood school inside and a few feet west of the Stonewall St. gate. The fourth is located behind a building now used as a church, south and adjacent of the shopping center located at SE corner of W. Winton and Hesperian.

An avigation easement over the annexation area could be no lower than the heights dictated by FAA regulation for flights over a residential area such as Fairway Park or areas of South Gate or area near Eureka school (ESL Center) at Catalpa and Miami near our Mayor's neighborhood. Why the prejudicial act of avigation easement imposition? If there is a legal obligation to advise of noise factors affecting property, is it not limited to the relationship existent between buyers and sellers?

Because other Hayward and San Lorenzo residential areas are not subject to avigation easements, please tell me how such a deed recording would aid control of noise levels in the proposed annexation area. Isn't that a meaningless act prejudicial to fee interests in the annexation area? Isn't that an act which falls into the grand scheme of things as promulgated by the famous Jon Rodgers who arrived in Hayward two weeks prior to the effective date of the existent noise ordinance and noisily made threats of both possible legal and recognizably illegal type? That man left town when I mailed him a copy of my protest to IRS and State Board of Equalization suggesting examination of his tax return caused by his US Mail circulated solicitation of dues and donations to his "NATIONAL AVIATION COMMISSION" of which he was the *Commission President*.

At the time period before and for about 18months after effective date of the Hayward's noise ordinance I was the elected chair of the Noise monitoring advisory committee composed of residents, field based aircraft owners/operators and pilots of aviation clubs etc. It is my recollection that consultants had advised us that noise complaints would diminish if pilots observed a few courtesies while also learning those skills necessary to fly safely without unnecessary creation of noise.

There was a six month period between passage of the ordinance and implementation (effective) dates. Consultants also advised that courtesy and safe flying practices strongly suggested that pilots turn onto final approach at no less than ½ mile distant from end of the runways. In the case of 28R it implies a turn prior to reaching W.Winton Ave. There are some who make turns so close to 28R that they must turn tightly so that their left wing rises to an angle in excess of 45 degrees relative to land surfaces. An FAA

representative, name long since forgotten, advised that such an angle constituted aerobatics (a 'wingover') which are illegal in this region. It continues to occur, especially with the those pilots flying one or other of the two field based 'Pitt Special' bi-planes. There are one or two other aerobatic low wing monoplanes which also need periodic reminders.

Recently, while distributing noise related materials along Chenault Way, I was personally affected by expended fuel fumes emanating from a large jet aircraft sitting on the taxiway where pilots must wait before receiving permission for take off from FAA flight controller at OAKLAND! Yes, Oakland not Hayward. Conflict in use of airspace occurs when larger aircraft leaving Hayward , off 28L, turn ***west*** to reach traffic pattern altitude en route anywhere south or east of Hayward. On the day of my effort along Chenault the first jet waited nearly 30 minutes during which time that neighborhood was completely engulfed in expended fuel fumes.

I had walked westerly along northerly side of Chenault beginning at Stonewall, crossed over to the opposite side and was walking, talking to residents for about 30 minutes prior to the crossover. The fume problem had grown worse the nearer I got to Hesperian near where that jet parked on the taxiway immediately adjacent the noise berm, directly along extension of Chenault Center line to the airfield.

When I reached the home of one of our newer residents, whom I imagine was an immigrant at younger age, I reached for my Combivent inhaler which I use for recovery when Chronic Obstructive Pulmonary Disease requires it of me. The lady recognized the medical device and I asked her how she and her young school age children, present on that Saturday morning, could accept living with that problem.

The lady's answer was that she had been advised of the proximity of her home to the airport and that she had to recognize that 'problems' attend that proximity. She did not feel legally entitled to make a complaint and it is my strong impression that she and her parents originated in some Central American nation where people fear their government.

Outrageous? Not as outrageous as the fact that the when twin engine jet aircraft causing the problem finally moved out, it was immediately replaced at it's standby position by another twin engine jet aircraft..

What in hell is the matter with airfield management that they are unable to recognize and prevent such problems? Are we soon to be placed in a position where we can expect passage of of air pollutant easements?

Vox clamantis in deserto ! (A voice crying in the wilderness !)

John W. Kyle

CC: Hayward Airport Director; Public Works Director; Hayward City Council; Hayward Chamber of Commerce; Howard Beckman; Editor at Daily Review; Mr. Bud Field; Mr. Gary Briggs.

Letter 10: John Kyle

- Comment: The commenter notes that imposition of avigation easements on properties remote from Runway 28L is not warranted as a means of noise control.

  Response: Comment acknowledged. The DEIR is recommended to be amended by reference to delete Impact 4.4-3 and related Mitigation Measure 4.4-3. Mitigation Measure 4.4-3 would have required avigation easements. However, added text has been recommended, as noted under item 3 in the following section, which indicates avigation easements would be required for future development in the Project area, to be determined during the development review of future proposals.

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June 15,2004

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JUN 15 2004

PLANNING DIVISION

Mr. David Rizk, Asso. Planner
Planning Div.
Comunity & Eco. Development Dept.
City of Hayward,
777 B Street
Hayward, Ca. 94541

Dear Mr. Rizk:

PLEASE SEE & FIND MY COMMENTS & CORRECTION/CORRECTIONS TO THE/YOUR DRAFT EDIFOR THE MT. EDEN ANNEXATION PROJECT.

ITEM 1. I do like the CALTRANS COMMENT OF: special attn. should be given to full trip reduction meas. in their ltr. to you dtd. Feb. 4, 2004 Item 7 11.1
.CORD WITH A/C TRANSIT
.PROVIDE TRAFFIC INFO TO EMPLOYEES & THE PUBLIC TO INC. PATRONAGE
DO NOTE: THE CURRENT A/C TRANSIT BUS STOP ON THE WEST SIDE OF CLAWITER RD. FOR ALL MEMBERS OF THE PUBLIC THAT ARE CURRENTLY GOING TO THE P.G.&E SERVICE/ CUST SERVICE BLDG. ON CLAWITER HAVE NO BUS STOP TO GET OFF THE/THEIR BUS FORM THE HAYWARD BART STATION. (THERE USE TO BE A WEST SIDE BUS STOP WHEN THE OLD/FORMER WHITE CAP MFG. PLANT WAS THERE FIVE TO SIX YEARS AGO. BUT WHEN 11.2 A/C TRANSIT PUT IN THE NEW RT 83 THAT NOW RUNS ON CLAWITER RD THEY TOOK OUT THE RT. BUS STOP THERE(JUST THINK NOW OF ALL THE INC.POV USE THAT IS & NOW IS INC. BECAUSE THERE IS NO DIRECT BUS STOP IN FRON/ACROSS THE STREET TO THE P.G&.E COMPLEX. FROMTHE SOUTH HAYWARD BART STATION CUS HAVE NO PROBLEM GETTEN BUT ON THEIR RET. TO GO BACK TO SOUTH HAYWAR BART STATION THAY HAVE A LONG WALK TO FIND A BUS STOP LOCATION(CROSSING CLAWITER RD.) WHICH HAS NO CROSS WALK THERE AT THAT LOCATION.

2. On Pg. 37 Trans. & Cir. item 4.5 The info about A/C Transit RT 92 & current/CURENTLY RT 92 is SLIGHTLY WRONG INCORRECT. ABOUT THE ROUTE. 11.3

HAY FIRE ON W. WINTON

Pg. 40 3. The Fire Station is to the EAST OF CLAWITER RD. NOT WEST I DO THINK THIS MAY BE A LITTLE BID OF A PROBLEM IF YOU HAVE VERY LARGE & HEAVY TRAFFIC AT AM & P.M. PEAK TIME AT THE INTERCETIONS OF W. WINTON & CLAWITER RD. & MAY BE OTHERS, BEING THAT YOU HAVE NOW THINKING THE WRONG LOCATION OF THE FIRE STATION. 11.4

V.T.Y.

Charlie Cameron
P.O. Box 55
Hayward, Ca. 94543

A/C TRANSIT

P.S. Please omit typeos.

NOTE: BETTER WORDING OR INFO ABOUT THE CURRENT RT 83 THAT NOW RUNS ONLY MON-FRI IN THE AREA AND THE CURRENT RT 86 THAT ONLY RUNS PARTLY IN THE AREA ONLY LIMITED TIMES MON- FRI ONLY.

PUT IN

PUT BETTER WORDING ABOUT A/C TRANSIT RT. 386 IN THE WEEKEND HOLIDAYS IN THE AREA BUS ONLY ON W. WINTON IN THE MT. EDEN SERVICE AREA

Letter 11: Charlie Cameron

- Comment 11.1: The commenter agrees with a previous Caltrans comment that full trip reduction measures, including traffic information, be given to employers.

  Response: Comment acknowledged.

- Comment 11.2: There is an issue for customers using the PG&E service center on Clawiter Road. There is currently no direct bus service to this facility

  Response: Comment acknowledged. No response necessary since this issue does not involve the proposed annexation Project.

- Comment 11.3: Information in the DEIR regarding AC Transit Route 92 is slightly incorrect.

  Response: Comment acknowledged. Revisions to the AC Transit Routes have been made, as reflected under item 2 in the following section entitled "Corrections and Modifications to the Draft EIR."

- Comment 11.4: The location of Hayward Fire Station #6 as noted on page 40 of the DEIR is east, not west, of Clawiter Road.

  Response: Comment acknowledged. The DEIR has been corrected, as noted under item 5 in the following section entitled "Corrections and Modifications to the Draft EIR."

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JUN 2 1 2004

PLANNING DIVISION

HOWARD PERRY BECKMAN
ATTORNEY AT LAW

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SAN LORENZO, CALIFORNIA 94580

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VIA FAX and ~~U.S. MAIL~~ personal delivery

June 19, 2004

Mr. David Rizk
City of Hayward
Planning Division
777 B Street
Hayward 94541

Comments on Draft EIR for the Mt. Eden Annexation Project

Dear Mr. Rizk,

Herewith are comments on the draft environmental impact report for the Mt. Eden Annexation Project dated May 2004.

The EIR is necessitated by the City of Hayward's proposal to annex a number of unincorporated "islands" within the city commonly known as the Mt. Eden area. The Notice of Completion of the EIR states that the purpose of the annexation study, the subject of the EIR, is *inter alia* to "implement goals, policies, and strategies within the Mt. Eden Neighborhood Plan and Hayward General Plan related to annexation of unincorporated islands, to identify environmental constraints and incorporate such constraints into the long-term planning of the area...."

No changes to land use designations in the city's general plan are proposed as part of the annexation process, and as many as 475 new dwellings may be built within the "Sakland Road island" (report to the city planning commission, June 10, 2004). The EIR specifically examines the impacts of extending utility lines, improving roads, and new (future unspecified) construction of housing and commercial buildings (*ibid*).

Comments herein are focused largely on the discussion in the EIR of aircraft noise impacts, both the approach to evaluation of noise and the proposed use of avigation easements as mitigation.

Page 1 of 5

Noise

Environmental Noise Descriptors

The draft EIR states that the method commonly used to evaluate environmental noise involves an adjustment of the sound spectrum measured (reflected in the A-weighted decibel) "to reflect the fact that human hearing is less sensitive to low and high frequencies than to mid-range frequencies" (page 31). This is not accurate in two respects.

First, the statement that the A-weighted decibel is the method commonly used to evaluate environmental noise is misleading. For purposes of the EIR it is more accurate to state simply that the A-weighted decibel has been adopted by federal agencies and the State of California for measuring transportation noise. The use of the A-weighted decibel in measurement and the adoption of annual averages to characterize transportation noise impacts is highly controversial in the U.S. at present, as evidenced in numerous papers presented at professional conferences in recent years. (See also, for ex., the current work of the Federal Interagency Committee on Aviation Noise, www.fican.org) 12.1

Second, A-weighting is not, as the EIR states, designed to focus sound measurement on the frequencies that humans hear best. Instead, it corrects for variation in frequency response of the human ear at commonly encountered noise levels. Early studies of "perceived loudness" in relation to frequency found that frequencies below 1,000 Hz were not perceived to be as loud as higher ones of equal intensity. So-called "equal loudness" curves show how loud a sound must be to be perceived as equally loud over the range between 20 Hz and 20 kHz. 12.2

A, B, and C weightings were developed to approximate the measured auditory responses of humans (the "equal loudness" contours) at different sound pressure levels; A-weighting is designed for low SPLs, B for mid-range, and C for high range. A fourth scheme, D-weighting, which is somewhat similar to B-weighting, was specifically designed to measure aircraft noise nuisance. Graphs of the weighting schemes are essentially inversions of the "equal loudness" curves. The choice of weighting (in effect, a filtering) has substantial consequences for the measurement of noise and for public policy.

In the U.S. the cornerstone of noise policy for decades has been the supposed correlation between classically measured "perceived loudness" and tolerance of noise (i.e., the annoyance or nuisance value). This correlation was advanced before the emergence of a respectable body of scientific studies on the psychological effects of noise on humans and the effects of noise on human health. Whether such correlations are a realistic representation is today controversial.

In this light, even if A-weighting provides the best representation of the subjective sensation of a sound (its loudness), it does not provide a scale of disturbance or annoyance due to sound. The dB(A) deemphasizes both the high frequencies (6.3 kHz and above) and the low frequencies (below 1 kHz), because our ears are less sensitive to those frequencies. The dB(A) thus deemphasizes the impacts of those events that are most irritating — the "boom boxes" in cars, and the rumbling undercurrent of aircraft. The National Park Service has compared C-

and A-weighted measurements of aircraft noise in parks and found that the low rumble from aircraft noise may not show up in A-weighted measurements. The U.S. Army uses the C-weighted decibel to measure noise from large-caliber weapons in order to capture the vibration produced by low-frequency sound.

The low frequencies "boosted" on our music systems sound very much like those heard when a jet passes nearby, but the A-weighted decibel would not detect either, whereas a C-weighted decibel would. In fact, most sounds are of mixed frequencies, and thus perception is in reality more complex than the "perceived loudness" curves would indicate.

Therefore, the choice of dB(A) for analysis of the noise impacts in many circumstances is inappropriate. In any case, the choice of dB(A) must be explained in order for the public to really understand the nature of the noise impacts being quantified. Is the choice based simply on convenience, i.e., the fact that the dB(A) is the "most commonly used" measurement for noise? To say that use of dB(A) allows for "comparability" because it is commonly used is to evade the issue altogether, since the issue raised here is what is being measured.

Significant Impacts

The draft EIR states that the Mt. Eden area is "not impacted by significant noise levels from Oakland International Airport or Hayward Executive Airport" (page 32). Immediately following that statement the draft EIR notes that the area is "subject to" touch-and-go flying from Hayward Airport, and that the "traffic pattern for the 650 altitude level cuts across the approximate center of the Sakland subarea of the [Mt. Eden] area with potentially significant noise levels." These statements contradict each other.

What is the basis for the conclusion that there are potentially significant noise levels due to touch-and-go flying from Hayward Airport? What studies or analyses have been done that lead to this conclusion? What is the significance of the 650 altitude? 12.3

In the 2001 EIR for the Hayward Airport master plan an isopleth of the 65 dB(A) annual average noise ("community noise equivalent level" or CNEL) surrounding the runways at Hayward Airport, the so-called "noise contour," does not come anywhere near the Mt. Eden area. In fact, there are no residences within this contour. The 65 dB contour is a "boundary of significance" adopted by the City of Hayward in the aforementioned EIR. By definition, noise outside the boundary is not deemed significant for purposes of the EIR.

On what grounds is the traffic pattern to be used to establish significant noise impacts instead of the methodology used in the EIR for the airport master plan, the methodology that is used universally at U.S. airports to determine significant noise disturbance of human activity? If the air traffic pattern is now to be the determinant of significant noise, then henceforth all residences under the traffic pattern, not just those in the Mt. Eden area to be annexed, must be deemed subject to significant noise.

Mitigation (Avigation Easements)

If at least some residents of the Mt. Eden area may be subject to significant noise from overflying aircraft, the City is required to propose mitigation that will reduce the noise to a level less than significant. The City proposes, as mitigation, to impose an avigation easement as a condition of permitting any new residence in the area to be annexed.

This stunningly self-serving proposal will not reduce aircraft noise in the least.

The avigation easement. An avigation easement is an easement, a right to use the property of another. An avigation easement is typically the right to inflict "excessive noise, vibration, discomfort, inconvenience, interference with use and enjoyment, and any consequent reduction in market value" on private land under aircraft in flight (quoting Public Utilities Code § 21652). (The term is sometimes used to refer to easements in the airspace of parcels within the airport's "safety zone" that restrict building above a certain height.) 12.4

The avigation easement is a relatively recent development in real property law and is typically imposed by the owner of an airport to minimize (but not eliminate) legal liability for noise nuisance due to aircraft operating from the airport. Although an avigation easement can in principle be obtained in a private, freely negotiated agreement, it is almost always obtained through condemnation proceedings by the government owner-operator of an airport. The avigation easement cannot be imposed by local government using its "general police powers"; it can be imposed only when a government owns the airport, as in Hayward.

The courts consider an avigation easement a constitutional taking of property for public purpose for which compensation must be paid. No U.S. courts have recognized an avigation easement by prescription, i.e., an avigation easement that would acrue simply because of years-long flights over private property and for which no compensation is due (similar to adverse possession).

Under existing state laws everywhere throughout the U.S. the liability for noise nuisance arising from airport operations, including aircraft overflights, is squarely on the airport, and these laws are not preempted by federal predominance in regulating aviation. Avigation easements are a way, in principle, of reducing this liability because they limit the property owner's right to sue the airport for noise nuisance. In light of the rapidly escalating public opposition to aircraft noise in urban areas, airport owners are becoming aggressive in their attempts to impose avigation easements without condemnation proceedings and without compensation.

CEQA requirements for mitigation. Avigation easements have nothing to do with reducing noise, either from the perspective of common sense or in terms of CEQA (see CEQA Guidelines § 15370).

Under CEQA the City of Hayward must attempt to mitigate the significant environmental impacts of a project — here the proposed annexation of the Mt. Eden area. CEQA's concern is with identifying significant impacts of a project. A significant impact is "a

substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project." (CEQA Guidelines § 15382.) It is not concerned with factors that may have an effect on the project. Neither annexation *per se* nor subsequent construction of new infrastructure or housing will create noise from the Hayward Airport. The notion is absurdly illogical. New housing in the Mt. Eden area may increase the City's liability for noise nuisance arising from the airport, but treating that liability as an environmental impact is inconsistent with the conceptual structure and language of CEQA.

Likewise, the notion that a reduction in legal liability qualifies as mitigation of an environmental impact under CEQA is equally absurd. Mitigation is defined in CEQA by the plain, common sense understanding of that term, i.e., reducing or eliminating an adverse effect (see CEQA Guidelines § 15370). A reduction in the City's legal liability for the adverse effects of aircraft noise on the population of the Mt. Eden area will not reduce, eliminate, or avoid those effects in the slightest.

Finally, even if the City insists that increased liability for noise nuisance is a legitimate "adverse impact" under CEQA and that imposition of avigation easements legitimately mitigates that impact, it does not have the power in the exercise of its general police powers to mitigate that liability by imposing avigation easements as a condition for permitting construction of new residences. In devising mitigation measures "a public agency may exercise only those express or implied powers provided by law other than [CEQA]." (Public Utilities Code § 21004; see also CEQA Guidelines § 15040 subd. (b).) The City of Hayward in its efforts to annex the Mt. Eden area is acting under authority expressly granted in state law (Government Code § 56000 et seq.). It is not acting as proprietor of the Hayward Executive Airport, i.e., it is not managing the affairs of the airport, and therefore does not have authority to impose avigation easements to protect itself as proprietor of the airport. The City's specific legal authority as proprietor of the airport does not merge with the City's other legal powers.

For all of the above reasons there is no factual or legal basis for Mitigation Measure 4.4-3 (aircraft noise impacts).

Transportation and Circulation

The draft EIR refers to "future plans" for the extension of West A Street to Corsair Blvd. as part of the I-880/Route 92 Reliever Project. The possibility of a future extension of West A St. should not be included in a description of the "existing roadway network" (page 37). From today's perspective there is no reasonable likelihood that West A Street will be extended in this manner and therefore the EIR should not rely on the existence of this new road. 12.5

Respectfully submitted,

Howard Beckman

Howard Beckman

Page 5 of 5

Letter 12: Howard Beckman

- Comment 12.1: The statement that the A-weighted decibel scale is the most commonly used method to evaluate environmental noise is misleading. It is more accurate to state that the A-weighted scale has been adopted by federal and state agencies to measure transportation noise.

  Response: The A-weighted noise measurement scale has been used to characterize noise levels in the Noise Element of the Hayward General Plan and EIR. The commenter is correct in that other methods do exist for measuring sound; however, the Mt. Eden DEIR references the City of Hayward's General Plan EIR, so the A-weighted scale was selected to identify noise impacts and potential mitigation measures.

- Comment 12.2: The A-weighted sound method is not designed to focus sound measurement on the frequencies humans hear best. It corrects for variation in frequency response of the human ear at commonly encountered noise levels. Other noise weightings also exist and even if the A-weighted scale provides the best representation of the subjective sensation of sound, it does not provide a scale of disturbance and does not provide a scale of disturbance or annoyance due to sound. Therefore, the choice of the A-weighted scale is inappropriate and the choice for such use should be explained to the public to understand the impacts of noise.

  Response: Regarding the comment that A-weighted noise scale and the human ear, the General Plan EIR identifies that "[The A-weighted] noise scale gives greater weight to the frequencies of sound to which the human ear is most sensitive" (page 7-4). As noted in the response to comment 12.1, the A-weighted noise measurement scale was used in the Mt. Eden Annexation DEIR since this noise measurement scale was used in the General Plan EIR and use of another noise weighting scale may not allow for easy comparison between the certified General Plan EIR and the Mt. Eden Annexation DEIR.

- Comment 12.3: The DEIR contradicts itself in that page 32 notes that the project area is not impacted by significant noise impacts, whereas, later pages in the same section note that the area is subject to touch and go flying that result in potentially significant noise levels in the approximate center of the Sakland Road subarea.

  Response: See item No. 4 under "Corrections and Modifications to the DEIR," where Impact 4.4-3 is recommended for elimination due to the fact that the Project site lies outside of a 65 dBA (Ldn) noise contour for Hayward Executive Airport. With the elimination of Impact 4.4-3, there is no conflict with regard to noise impacts.

- Comment 12.4: The proposed mitigation measure contained in the DEIR to require avigation easements to mitigate potentially significant noise caused by aircraft overflights from Hayward Executive Airport is inappropriate. Avigation easements have nothing to do with mitigating or reducing noise. Likewise the concept that reduction of legal liability qualifies as mitigation is absurd. Even if the City insists

that increased liability from increased noise is a legitimate impact, the City does not have the power to exercise its general police power to mitigate liability by imposing avigation easements as a condition of permit issuance.

Response: See item No. 4 in the "Corrections and Modifications section to the DEIR," where Mitigation Measure 4.4-3 is recommended for elimination due to the fact that the project site lies outside of the 65 dBA (Ldn) noise contour for the Hayward Executive Airport. With the elimination of Impact 4.4-3, there will be no requirement for future avigation easements as noise mitigation. However, text has been added under the environmental setting discussion related to aircraft noise, as noted under item 3 in the following section, which indicates avigation easements would be required for future development in the Project area.

- Comment 12.5: The possibility of a future extension of West A Street should not be included in the description of the existing roadway network. From today's perspective there is no reasonable likelihood that West A Street will be extended in this manner and the EIR should not rely on this new road.

  Response: Comment acknowledged. Refer to Item 7 in the "Corrections and Modifications to the DEIR" section, which provides for alternative roadway modifications to the West Winton Avenue/Hesperian Boulevard intersection that are recommended in the interim until West A Street is extended.

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June 21, 2004

Associate Planner David Rizk
Planning Division
Community and Economic Development Department
City of Hayward
777 B Street
Hayward, CA 94541

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PLANNING DIVISION

Mr. David Rizk,

In response to the notice that comments will be received on the DEIR through June 21, 2004, today, I am submitting the following for:

Section 5.4 Alternatives Considered but Rejected

Under this section the report stated:

"The City of Hayward decided not to pursue annexation of these two additional unincorporated island areas based, in part, on community opposition expressed at an initial community meeting held in October 2003. Such opposition was based, in part, on the desire of residents in those areas to continue to be served by the private water company that serves those areas, Mohrland Mutual Water Association. Annexation of these other two islands would negatively impact the water company. Such opposition would render this alternative infeasible in that annexation would likely not be approved; therefore, this alternative has not been considered further in the DEIR."

My comments are:

1. The Tax Increment Funding concept had not been made known to the residents in October (it was disclosed at the March 17, 2004 meeting) and if it had been at least identified as a possible solution to funding the infrastructure, it would have had a significant impact at that time. 13.1

2. My question at the June 10, 2004 meeting on the DEIR, is what would generate the negative impact to the water company if the two islands would be annexed?
The answer, as I understand it, was as residents hooked up to the city water it would reduce the number of residents served by the water company and eventually the water company would not be able to continue functioning. 13.2

   This may not be a problem because we assume it will take a while for this change to city water to occur, assuming we can voluntarily decide to switch to the city water at our present residences.

3. A topic that was not considered by the analysts for the report was the impact of Resolution No. 95-21, in which the city 13.3

resolved not to provide sewer and water connections to new development in the unincorporated islands of Mt Eden unless the entire island is improved to city standards for infrastructure and agrees to annexation upon the completion of the improvements.

What that means is no one individual property owner can make any improvements that require connections to city sewer or water until all the property owners agree to annexation and improvements for the whole island are installed.

What the DEIR report doesn't say is that by recommending that the two islands continue to be excluded from the annexation study, it eliminates the islands' opportunity to meet the annexation requirements, and thereby continues the prohibition of any individual property owner developing their property. This is an inconsistency in the demanding of compliance to annexation and infrastructure improvements and then blocking an opportunity to meet this requirement.

Don Sheppard

Don Sheppard
24772 Mohr Drive
Hayward, CA 94545

Letter 13: Don Sheppard

- Comment 13.1: The Tax Increment Financing concept was not made known to the residents at an earlier date and if this had been know, it might have made a significant impact at that time.

  Response: Refer to the Master Response.

- Comment 13.2: Would the project result in a negative impact to the water company if the two islands were to be annexed? It is the commenter's understanding that as residents hooked up to the City water system, it would reduce the number of residents and eventually the water company would not be able to continue.

  Response: Refer to the Response to Comment 2.6.

- Comment 13.3: A topic not considered was the impact of Resolution No. 95-21, which set a policy that water and sewer service would not be provided to new development in the Mt. Eden area unless the entire island is improved to City standard.

  Response: The comment relates to City policy and the boundary of the proposed annexation area. The City Resolution is not an environmental impact addressed in the DEIR. For a discussion of project boundaries, refer to the Master Response.

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Corrections and Modifications to the Draft EIR

The following minor corrections and modifications are made in the DEIR and incorporated by reference into the DEIR document. None of the following changes are considered as major and do not warrant a recirculation of the DEIR.

In terms of formatting, text below which has been ~~struck through~~ is proposed for deletion and underlined text is proposed to be added to the EIR.

1) Mitigation Measure 4.2-1(page 21) is amended to read as follows:

> **Mitigation Measure 4.2-1 (soil and groundwater contamination). As part of environmental review for development projects, ~~Prior to issuance of grading or building permits (if a grading permit is not required)~~, 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 agency with a copy submitted to the Hayward Fire and Economic and Community Development Departments. Necessary permit(s) shall be obtained from the appropriate regulatory agency. Remediation workers safety plans shall be included within each work plan.**

This revised mitigation measure is also included by reference in Table 1 in Section 1.0, Summary of Impacts and Mitigation Measures.

2) Description of existing public transit network (page 40) is amended to read:

> *Existing public transit network*
> AC Transit operates several routes in the proposed annexation area:
>
> > *Route 83,* funded from a Low Income Flexible Transit (LIFT) grant, operates on weekdays with 30 minute headways in the peak hours, 60 minute headways in the off-peak hours, between the Hayward and South Hayward BART stations along Winton Avenue, Clawiter Road, Eden Landing Road, Investment Boulevard, Corporate Boulevard, Arden Road ~~and~~ Industrial Boulevard and Tennyson Road.
> >
> > *Route 86*, also funded from a LIFT grant, operates with 30 minute headways between the Hayward and South Hayward BART stations along Winton Avenue, Cabot Boulevard, Depot Road, Industrial Boulevard and West Tennyson Road. Both Route 83 and Route 86 provide transit service to the welfare-to-work population.
> >
> > *Route 92* runs along Hesperian Boulevard to the Hayward BART station along Hesperian Boulevard at 15-minute intervals in the peak hour. It also runs along

Hesperian Boulevard between Kaiser Hospital and the South Hayward BART station on weekends.

Route 97 runs along Hesperian Boulevard with 20-minute headways between Union City and Bayfair BART stations. It is categorized as a trunk route.

Line M runs from the Hayward BART station to the Hillsdale Mall in San Mateo County along Hesperian Boulevard and Route 92. The line operates with 30-60 minute headways.

3) The following discussion is added to the environmental setting - aircraft noise section on page 32 in the DEIR;

Aircraft noise
Based on Figure 7.3 in the General Plan EIR, the Project area is not impacted by significant noise levels from Oakland International Airport or Hayward Executive Airport. The Hayward Executive Airport Master Plan indicates portions of the Project site are subject to "touch-and-go" (practice landing) operations at Hayward Executive Airport. This air traffic pattern for the 650 altitude level cuts across the approximate center of the Saklan subarea of the Project area with potentially significant noise levels.

Concerns with nuisance issues associated with touch and go aircraft flights will be addressed in the future during review of specific developments. To address such concerns, the City will require avigation easements that would ensure disclosure and notification to future property owners of touch and go aircraft operations in the vicinity.

4) The following discussion of aircraft noise impacts (Impact 4.4-3) and the associated Mitigation Measure 4.4-3, is eliminated from the DEIR.

~~*Aircraft noise*~~
~~A portion of the Saklan Road subarea is subject to overflights from aircraft performing "touch and go" operations at Hayward Executive Airport. Existing and future residents along Saklan Road would be subject to potentially significant noise levels from such operations.~~

~~**Impact 4.4-3 (aircraft noise impacts). Future residents along Saklan Road would be subject to potentially significant noise levels from touch-and-go aircraft operations at Hayward Executive Airport (*potentially significant and mitigation required*).**~~

~~**The following measure is recommended to mitigate this impact to a less-than-significant level. Avigation easements include a right to prohibit the construction of tall structures or similar object on subject properties that would enter into protected airspace and result in an aircraft safety hazard, an acknowledgement that that property is subject to noise from aircraft operations and the protection**~~

~~of aircraft right-of-way over the subject property at a surface specified by the Federal Aviation Administration (FAA).~~

~~Mitigation Measure 4.4-3 (aircraft noise impacts). All future residential development within the Project area shall enter into an avigation easement with the City of Hayward indicating an acknowledgment of existing and future aircraft operations. The avigation easement shall be recorded with the County Recorder prior to issuance of a Certificate of Occupancy.~~

The deletion of this section from the DEIR is based on further review of Figure 7.4, Future Noise Contours, contained in the General Plan EIR certified by the City of Hayward in 2002 which shows all of the three island areas lying outside the 65 dBA (Ld) of Hayward Executive Airport. Comment letter 7 from the Alameda County Airport Land Use Commission confirms that the project site lies outside of a 65 dBA noise contour of an airport.

The deletion of this impact and mitigiaton measure is also applicable to Table 1 in Section 1.0, Summary of Impacts and Mitigation Measures.

5) Description of emergency access (page 40) is amended to read:

Emergency access
Fire Station No. 6, located on West Winton Avenue just ~~west~~ east of Clawiter Road, is the closest fire station to the study area. Primary emergency response routes exist along West Winton Avenue, Clawiter Road, Industrial Boulevard, Hesperian Boulevard and Route 92.

6) Discussion of West A Street (page 37). The discussion of West A Street is modified to read as follows

West A Street is a two-lane east-west collector north of the Project area and west of Hesperian Boulevard that provides access to the Hayward Executive Airport. East of Hesperian Boulevard, A Street is four lanes and connects with I-880. Future plans call for the extension of A Street to Corsair Boulevard as part of the I-880/Route 92 Reliever Route project. When completed, the West A Street extension ~~will~~ would relieve the heavily congested Hesperian-Winton intersection as noted below.

Although the West A Street project has been under consideration for a number of years, it is not an approved project. For alternative roadway improvements to provide interim relief to the heavily congested Hesperian Boulevard-West Winton Avenue intersection, see item 7, below.

7) Description of future traffic impacts at the Hesperian/West Winton intersection (page 44) is amended to read as follows:

~~Although project conditions will result in LOS F at Hesperian Boulevard and West Winton Avenue.~~ Although operations at the Hesperian Boulevard/West Winton

Avenue intersection under project conditions will continue to operate at LOS F, the planned Industrial Assessment District improvements or other roadway improvements will address the congestion at this location. Specifically, construction of the West A Street extension is projected to improve the level of service at this intersection to C. There are no other intersections where implementation of the project will result in a LOS that has a significant impact to any of the study intersections.

Alternatively, if the West A Street extension and other roadway upgrades that would comprise the Industrial Assessment District improvements are not constructed in a timely manner to ensure impacts at the intersection would not occur, the following interim roadway improvements are recommended, which would improve the LOS to D in the AM peak hour and to E in the PM peak hour:

1) Convert the West Winton Avenue westbound right-turn lane into a shared through/right-turn lane, with other adjustments made to accommodate the three westbound acceptor lanes and moving the Hesperian Boulevard southbound right turn lane.
2) Lengthening the West Winton Avenue westbound left-turn lane by approximately 300 feet.

8) Impact 4.5-1(page 44) is amended to read as follows:

Impact 4.5-1(Project traffic impacts). Future traffic related to the annexation of the Project area and future development would result in increased vehicle delays by ~~at least 5.8~~ 6.8 seconds during the PM peak hour at the intersection of Hesperian Boulevard/W. Winton Avenue and ~~the intersection of Clawiter and~~ an increase of at least 7.2 seconds during the PM peak hour at the ~~Hesperian/West Winton Avenue.~~ intersection of Clawiter and Dunn Roads. Planned roadway improvements in and adjacent to the Project area will provide additional roadway capacity in the future to accommodate Project-related traffic (*less-than-significant impact and no mitigation required).*

This revised impact is also included by reference in Table 1 in Section 1.0, Summary of Impacts and Mitigation Measures.

9) The discussion of Fire and Police services contained in Section 4.6, Utilities and Public Services, on pages 55 and 56, is amended to read as follows:

Fire protection
Fire and emergency medical service to the Project area is provided by two agencies. The City of Hayward Fire Department provides fire suppression, emergency medical, fire prevention, hazardous materials response and related services to the incorporated portion of the Project area and other unincorporated areas in the Mt. Eden vicinity~~, as well as the entire City of Hayward~~. The Department employs a staff of ~~148~~ 137 with 62 firefighters certified as paramedics. Hayward Fire Department staff responds to approximately 13,000 calls for service per year. Due to budget cutbacks, ~~Nine~~ eight

operating stations are maintained by the Department, which house ~~eleven~~ ten fire companies. These consist of ~~nine~~ 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 Project area is Fire Station #6, located near the intersection of West Winton Avenue and Saklan Road ~~Hesperian Boulevard~~ (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 Project area, the response time for the primary company would be well within the City's response criteria.

Fire protection service for most of the unincorporated portions of the County in the vicinity are 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 at 109 Grove Way in Hayward.

In 1983, the City of Hayward and Alameda County entered into an agreement whereby the City of Hayward 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, therefore, the ~~City of~~ Hayward Fire Department has historically been and will continue to be the primary fire protection agency for the Project area and unincorporated areas in the Mt. Eden vicinity.

The Hayward Fire Department responded to 24 calls for service in the Project area in 2003, 21 calls in 2002, 31 calls in 2001 and 29 calls in 2000.

Police protection

The City of 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 Department maintains a staff complement of 213 sworn officers out of a total staff of 309. 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.

For the unincorporated portions of the Mt. Eden 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 responded to ~~128~~ 97 calls for service in the Project area in 2003, ~~166~~ 150 calls in 2002, 104 calls in 2001 and ~~215~~ 111 in 2000.

10) Water demand and supply impacts and mitigation (pages 57 to 59) section is amended as specified below.

Water demand and supply

The City of Hayward operates a water distribution system to supply 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. Hayward's sole source of potable water is the San Francisco Public Utilities Commission (SFPUC), primarily through the Hetch Hetchy Water System. In the early 1960s, Hayward and the SFPUC entered into an agreement that generally provides for the supply of all the water that Hayward needs in perpetuity. This agreement provides a reliable water source to the extent that SFPUC is able to deliver water. 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. Recent legislation requires SFPUC to implement some of the more critical supply reliability projects. On the distribution side, in 2002 the City updated its Water Distribution System Master Plan to identify improvements needed to serve customers through 2020. Recommended projects have been incorporated into the Capital Improvement Program.

Approval of the proposed annexation and installation of public infrastructure improvements would allow future water service for the entire Project area by the City of Hayward. ~~Existing private wells and~~ The use of water service provided by the private water company, the Mohrland Mutual Water Association, would eventually be ~~phased out~~ limited as new development is proposed within the Project area or as private wells are no longer functional. It is expected that properties currently served by the Mohrland Mutual Water Association 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~~, or a change in ownership~~. It is likely that this private service would eventually be limited to providing water for irrigation and other non-potable uses.

The City of Hayward presently provides domestic water to several of the properties within the proposed Annexation area through ~~outside~~ Utility Service Agreements (USAs) (**see Figure 4.6.1**).

Water Demand Estimates for Project Area

Implementation of the proposed Project 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 following paragraphs.

Residential: ~~A recent study of water use for new developments in the area has indicated that~~ City Public Works staff has recently reviewed new developments, including some in the Mt. Eden area, to determine the average water usage for residential units. This review indicated that water use averages between ~~is~~ 400 to 600 gallons per day (gpd) per unit~~.~~, depending on the size of the lot, size and type of dwelling units, and the extent of common landscaping. This estimate is in keeping with the data included in the December 2002 Water System Master Plan update. Given that the lot sizes in the Project area will likely not be large, based on the pre-zoning designation of medium density, it is anticipated that the average water use in the Project area will be 400 gpd per residential unit. Given the anticipated 475 additional units that would be constructed in the Project area, total projected average daily water use for future residential development will be 190,000 gallons per day.

Non-residential: Estimated future non-residential water use is more difficult to predict, since usage will depend entirely on the types of business uses that are ultimately developed. However, based on the prezoning designations and those anticipated future uses identified in Sections 3.1 and 3.3 of this document, rough projections of future water usage ~~are:~~ can be made.

The following gallon-per-acre-per-day (gpad) estimates for non-residential development were prepared as part of the recent Water System master planning effort. The 2020 estimated water demands are based on actual 1996 water demands for designated land use zones, with adjustments made for intensified or completed developments and changes in water conservation practices. Considerable effort was put into developing supportable estimated water duties for non-residential. It is therefore appropriate and reasonable to use the same planning estimates for the Project area.

Sakland Road Island:
10.5-acre light industrial @ 1,600 gpad = 16,800 gpd
2.15-acre neighborhood commercial @ 1,320 gpad = 2,800 gpd

Depot Road Island:
41-acre R&D/Business Park @ 1,600 gpad ~~(gallons per acre per day)~~ = 65,600 gpd

Dunn Road Island:
15-acre light industrial @ 1,600 gpad = 24,000 gpd

The planning estimates yield a total estimated demand of 109,200 gpd for all non-

residential uses. The total estimate for all uses within the Project area is 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 following analysis is the result of staff's assessment of the Hayward Water System's ability to serve water to the Project area at buildout.

The Hayward City Council adopted the City's most recent Urban Water Management Plan (UWMP) in 2000. It was prepared in accordance with requirements of the California Water Code §19610 to 10657. The UWMP was deemed complete by the State Department of Water Resources in November 2002.

Development in the Mt. Eden area is not specifically called out in the UWMP. However, the projected water use and available sources, identified in the UWMP, form the basis for the City's conclusion that water demand for the Project area can be met with available water resources. Two major factors lead to this conclusion.

First, while two new major residential developments that were known to the City in 2000 were identified the UWMP, provisions for water demands were also made for unforeseen development since the community as a whole is undergoing significant change and the scope of that change was not fully known. The City assumed an overall 2 to 3 percent per year increase in water usage. These planning assumptions would allow for anticipated development in the Project area.

Second, actual usage has so far not met the demand anticipated in the UWMP. Although the water usage may have been impacted by the last drought, the lower-than-expected usage may cause a re-examination of some of the planning assumptions when the UWMP is updated in 2005. However, the UWMP demonstrated that the long-term water supplies are sufficient to serve the City's needs even at the unrealized higher use levels.

The following tables, excerpted from the 2000 UWMP, illustrate these factors. The first table summarizes projected water use by customer sector, as anticipated in 2000 through 2020. The second table shows the projected supply and demand. Both of these tables assume that water supplies are normal.

Water Use By Customer Sectors
1995-2020
(In Million Gallons Per Day)

	1995	2000	2005	2010	2015	2020
Single-family	4.49	7.54	8.74	9.89	10.91	12.05
Multi-family	3.43	3.23	3.51	3.82	4.16	4.52

Commercial	1.56	1.86	2.15	2.49	2.89	3.35
Industrial	2.49	3.77	4.81	5.57	6.46	7.49
Government	0.87	1.28	1.35	1.41	1.49	1.56
Unaccounted	1.40	1.59	1.85	2.09	2.33	2.61
Totals	**14.24**	**19.26**	**22.41**	**25.28**	**28.25**	**31.59**

Projected Supply and Demand Comparison
Normal Precipitation
(In Million Gallons Per Day)

	2000	2005	2010	2015	2020
Projected Supply Totals (from SFPUC)	19.26	22.41	25.28	28.25	31.59
Projected Demand	19.26	22.41	25.28	28.25	31.59
Difference	0	0	0	0	0

Based on the analysis that was performed when the UWMP was developed, it would be expected that the average daily demand in 2004 would be about 21.7 million gallons per day (mgd) from all uses. However, actual usage in FY 2003-04 was 19.6 mgd, 2.1 mgd less than projected. Water supplies are demonstrably available to meet demands of 31.59 mgp in 2020, although it is currently expected that actual demand in that year will be less.

The UWMP also describes water supply planning during single- and multiple-year droughts. As presented in the UWMP, the City could expect to reduce its overall consumption by up to 10% in the first or single year of a drought. A 10% reduction in pre-drought demand could be required in the second year. If the shortage continues into the third year, a 20% or more reduction may be required. The following table, which is also part of the UWMP, reflects supply and demand during a normal year, a single-dry year, and multiple dry years. The difference between supply and demand represents the reduction in water usage that would need to be achieved to meet water rationing requirements. (Note that this table, which has been updated to reflect more current water usage data, mirrors the corresponding table in the UWMP in terms of assumed percentage reductions. These percentages may differ from actual reduction requirements.)

Supply Reliability and Demand Comparison
Less-Than-Normal Precipitation
(In Million Gallons Per Day)

	Pre-Drought	Single Dry	Multiple Dry Water Years		
	Base Year (2004)	Water Year (2005)	Year 1 (2005)	Year 2 (2006)	Year 3 (2007)
Demand Totals	19.64	20.23	20.23	20.84	21.46

Supply Totals	19.64	17.68	17.68	17.68	15.91
Difference	0	2.55	2.55	3.16	5.55

~~Development in the Mt. Eden area is not specifically identified in the City's adopted 2000 Urban Water Management Plan (UWMP). However, several factors were considered in assessing the water supply for the project area. First, the UWMP provides for unforeseen development since the community as a whole is undergoing significant change and the scope of that change is not fully known. The assumptions that were made for planning purposes were generous enough to accommodate development in the project area. Second, actual usage has so far not met the demand anticipated in the UWMP. This has caused City Utilities staff to re-examine several of the planning assumptions and conclude that the demand in 2020 will be somewhat less than indicated in the UWMP. As demonstrated in the UWMP, however, the long term water supply is expected to be sufficient to serve the City's needs even at the higher projected number. Utilities staff can, therefore, verify that the project water demand of less than 300,000 gpd in the project area conforms with demand projections in the UWMP and that the Hayward water system will have adequate water resources to serve the project area.~~

Past experience indicates that the required water savings could be achieved through a combination of public education and, if necessary, the implementation of a water rationing program, similar to the program established during the previous multi-year drought, which ended in 1993.

Based on the City of Hayward's most recent UWMP, analysis of recent water demand data, and known or anticipated future water demands, it has been determined 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 Project, in addition to the existing and planned future uses.

Water Conservation

Even with the favorable water supply agreement that Hayward has with SFPUC, Hayward is fully committed to ongoing water conservation efforts and expects that development in the Project area would incorporate appropriate water conservation measures. Because ~~As noted earlier,~~ Hayward water is provided by a regional water system with demands from other local agencies~~. Water~~, water conservation measures are critical to sustaining this supply, and any future development should be required to implement as many water-saving technologies as feasible.

Impact 4.6-1(water demand). Approval of the proposed annexation would allow City water service to be extended to the Project area. Future development of the Project area could require up to an average of 190,000 gallons of water per day for residential uses and 109,200 gallons per day for non-residential development. While water supply is available to serve the maximum demand for this project, it should be noted that ongoing standard water conservation and demand reduction measures should be taken to reduce the impact on the water supply

(less-than-significant impact and no mitigation required).

11) Local and community park impacts and mitigation (pages 68 to 69) section is amended as specified below.

The discussion on page 68 is amended to read as follows:

> *Parks*
> Approval and implementation of the proposed annexation would have no impact on HARD District boundaries, since the Project area already lies within this special district. Annexation of Project properties to the City of Hayward and their subsequent development could facilitate the demand for local and community parks and recreational facilities due to an increase in the number of permanent residents within the area.
>
> Based on an average household size of 3.08 persons per dwelling taken from the 2000 U.S. Census, as applied to an estimated 475 new dwellings, which represents a mid-range density development scenario per the existing medium-density General Plan land use designation, an additional 7.3 additional acres of parkland within the Project area would be needed ~~under City of Hayward parkland dedication requirements~~.
>
> The City of Hayward levies a park dedication in-lieu fee to help off-set demand for new parks in the City based on new development.

The impact and mitigation related to the provision of local and community parks is changed to read as follows:

> **Impact 4.7-1 (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 ~~7.3~~ 8.3 acres of parkland *(potentially significant impact and mitigation required).***

This Impact is recommended for modification since it is based on a overall dwelling unit occupancy of 3.08 persons per dwelling, consistent with the 2000 Census. However, the City's park dedication ordinance (Section 10-16.21 (a) of the Hayward Municipal Code) requires use of the following dwelling unit occupancies: 3.43 persons/dwelling for detached single family dwellings, 3.27 persons per dwelling for attached single family dwellings and 2.77 persons per dwelling for multi-family (rental) dwellings. Based on recent development trends, it appears that multi-family dwellings will be less likely to be constructed. So, if it is assumed that new dwellings constructed in the project area will be 50% detached single-family dwellings and 50% attached single-family dwellings, the resulting population would require the provision of 8.3 acres of new parkland to meet City requirements.

Mitigation Measure 4.7-1 is also recommended to be modified to read as follows:

Mitigation Measure 4.7-1 (local and community park and recreation facilities). Payment of park in-lieu fees or dedication of parkland and or recreation facilities, as approved by HARD, at the time future development is permitted will ~~off-set~~ mitigate the demand for future parks. Possibilities for enhanced park and recreation facilities in and adjacent to the Project area may include the expansion 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 (*less-than-significant impact and no mitigation is required).*

The 3.55-acre area has been added as a possible future park site, since it is shown as such in the Mt. Eden Neighborhood Plan, if it were to become available. Rancho Arroyo Park, which is managed and jointly used by the Hayward Area Recreation and Park District, is owned by the Hayward Unified School District and could not be expanded without encroaching onto Ochoa Middle School grounds. However, it could be enhanced with added facilities.

This revised impact and mitigation measure are also included by reference in Table 1 in Section 1.0, Summary of Impacts and Mitigation Measures.

For information purposes, the City revised park in-lieu fees in 2003 as follows: $11,953 per single-family detached dwellings, $11,395 per single family attached dwellings (condominiums, townhouses and similar) and $9,653 per multi-family dwellings.

Table 1 below summarizes the environmental impacts and mitigation measures which are discussed in detail in the Draft Environmental Impact Report. Based on the section entitled, "Corrections and Modifications to the Draft EIR" contained in the previous section of this Final EIR (FEIR), changes to impacts and mitigations included in the DEIR have been made as identified below. Text proposed to be deleted is ~~struck through~~ and additions are underlined.

Summary of Environmental Impacts and Mitigations

Topic/Impact	Significance/Mitigation Measure	Net Impact After Mitigation
Impact 4.1-1 (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 (*potentially significant impact and mitigation required*).	**Mitigation Measure 4.1-1 (seismic ground shaking). 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.**	**Less-than-significant**

Topic/Impact	Significance/Mitigation Measure	Net Impact After Mitigation
Impact 4.1-2 (ground failure and 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 (*potentially significant impact and mitigation required*).	**Mitigation Measure 4.1-2 (ground failure and liquefaction). 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.**	**Less-than-significant**
Impact 4.1-3 (grading and topographic changes). Future development of the Project area would require grading and re-contouring of existing topographic elevations to create building pads, underground utilities and improve drainage and flood conditions. Given the flatness of the Project area, the amount of grading is anticipated to be minimal (*less-than-significant impact and no mitigation required*).	No mitigation measures are needed.	

Topic/Impact	Significance/Mitigation Measure	Net Impact After Mitigation
Impact 4.2-1 (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 *(potentially significant impact and mitigation required).*	**Mitigation Measure 4.2-1 (soil and groundwater contamination). As part of environmental review for development projects, ~~Prior to issuance of grading or building permits (if a grading permit is not required)~~, 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 agency with a copy submitted to the Hayward Fire and Economic and Community Development Departments. Necessary permit(s) shall be obtained from the appropriate regulatory agency. Remediation workers safety plans shall be included within each work plan.**	**Less-than-significant**

Topic/Impact	Significance/Mitigation Measure	Net Impact After Mitigation
Impact 4.2-2 (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 *(potentially significant impact and mitigation required).*	**Mitigation Measure 4.2-2 (demolition activities). 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.** **Mitigation Measure 4.2-3 (release of asbestos). 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**	**Less-than-significant**

Topic/Impact	Significance/Mitigation Measure	Net Impact After Mitigation
	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.	
Impact 4.3-1 (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 (*potentially significant impact and mitigation required*).	**Mitigation Measure 4.3-1 (soil erosion). 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.**	**Less-than-significant**

Topic/Impact	Significance/Mitigation Measure	Net Impact After Mitigation
Impact 4.3-2 (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 (*potentially significant impact and mitigation required*).	**Mitigation Measure 4.3-2 (non-point source pollution). 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.**	**Less-than-significant**

Topic/Impact	Significance/Mitigation Measure	Net Impact After Mitigation
Impact 4.3-3 (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 (*potentially significant impact and mitigation is required*).	**Mitigation Measure 4.3-3 (stormwater runoff and drainage patterns).** 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.	Less-than-significant

Topic/Impact	Significance/Mitigation Measure	Net Impact After Mitigation
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 (*potentially significant impact and mitigation is required*).	**Mitigation Measure 4.3-4 (flooding). For future development within a 100-year flood hazard area, future Project applicants shall:** **a) Submit a hydrology and hydraulic study prepared by a California-registered civil enginecr 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.**	**Less-than-significant**

Topic/Impact	Significance/Mitigation Measure	Net Impact After Mitigation
Impact 4.4-1 (construction noise impacts). Future residents within and adjacent to Projeet 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 (*potentially significant and mitigation required*).	Adherence to Section 4-1.03 of the Hayward Municipal Code will ensure that short-term construction noises would be less-than-significant.	**Less-than-signifieant**
Impact 4.4-2 (permanent noise impacts). Future construction of residences along the east side of Clawiter Road within the Project area could be subject to extcrior noise levels within the "conditionally acceptable" noise level identified in the General Plan Noise Element (*potentially significant and mitigation required*).	**Mitigation Measure 4.4-2 (permanent noise impacts). 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.**	**Less-than-significant**
~~**Impact 4.4-3 (aircraft noise impacts). Future residents along Saklan Road would be subject to potentially significant noise levels from touch-and-go aircraft operations at Hayward Executive Airport (*potentially significant and mitigation required*).**~~	~~**Mitigation Measure 4.4-3 (aircraft noise impacts). All future residential development within the Project area shall enter into an avigation easement with the City of Hayward indicating an acknowledgment of existing and future aircraft operations. The avigation easement shall be recorded with the County Recorder prior to issuance of a Certificate of Occupancy.**~~	~~**Less-than-significant**~~

Topic/Impact	Significance/Mitigation Measure	Net Impact After Mitigation
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 (*potentially significant and mitigation required*).	**Mitigation Measure 4.4-4 (vibration impacts). 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.**	**Less-than-significant**
Impact 4.5-1 (Project traffic impacts). Future traffic related to the annexation of the Project area and future development would result in increased vehicle delays by ~~at least 5.8~~ 6.8 seconds during the PM peak hour at the intersection of Hesperian Boulevard/W. Winton Avenue and ~~the intersection of Clawiter and~~ an increase of at least 7.2 seconds during the PM peak hour at the ~~Hesperian/West Winton Avenue.~~ intersection of Clawiter and Dunn Roads. Planned roadway improvements in and adjacent to the Project area will provide additional roadway capacity in the future to accommodate Project-related traffic (*less-than-significant impact and no mitigation required).*	No mitigation measures are needed.	

Topic/Impact	Significance/Mitigation Measure	Net Impact After Mitigation
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. (*This impact is considered significant and unavoidable; therefore, a statement of overriding considerations will be required).*	**No mitigation measures have been identified.**	**Significant.**
Impact 4.5-3 (public transit impacts) Annexation of the area and future development of the Project area under the auspices of the Hayward General Plan would increase AC Transit ridership and ridership of other public transit providers (*less-than-significant impact and no mitigation required).*	No mitigation measures are needed.	
Impact 4.5-4 (bicycle and pedestrian impacts). Missing street and sidewalk improvements in the Project area would be facilitated in the City of Hayward, as new development occurs (*less-than-significant impact and no mitigation required).*	No mitigation measures are needed.	

Topic/Impact	Significance/Mitigation Measure	Net Impact After Mitigation
Impact 4.6-1 (water demand). Approval of the proposed annexation would allow City water service to be extended to the Project area. Future development of the Project area could require up to an average of 190,000 gallons of water per day for residential uses and 109,200 gallons per day for non-residential development. While water supply is available to serve the maximum demand for this project, it should be noted that ongoing standard water conservation and demand reduction measures should be taken to reduce the impact on the water supply (*less-than-significant impact and no mitigation required).*	No mitigation measures are needed.	

Topic/Impact	Significance/Mitigation Measure	Net Impact After Mitigation
Impact 4.6-2 (wastewater generation and treatment). Per current Municipal Code provisions, approval and implementation of the proposed Project would require unincorporated properties in the Mt. Eden area to connect to the City's wastewater treatment system. New residential development facilitated by the annexation would generate up to an estimated 109,250 gallons of wastewater per day and 76,500 gallons per day for non-residential development. Adequate wastewater treatment plant capacity exists to accommodate new wastewater flows from the Project area, though a collection system plan that is typically required would need to be prepared prior to approval of specific projects (*less-than-significant impact and no mitigation required*).	No mitigation measures are needed.	

Topic/Impact	Significance/Mitigation Measure	Net Impact After Mitigation
<u>Impact 4.6-3 (wastewater disposal).</u> Approval of the proposed annexation and future development in the annexation area would generate an increase in the amount of treated effluent leaving the City's wastewater treatment plant. Based on discussions with City staff, the local wastewater disposal system is anticipated to be adequate to accommodate buildout of the Project area, consistent with the General Plan. Disposal of increased quantities of treated wastewater would be less-than-significant (*less-than-significant impact and no mitigation required*).	No mitigation measures are needed.	
<u>Impact 4.6-4 (solid waste disposal).</u> Approval of the proposed annexation would not change the current solid waste collection provider services; however, construction of new development would increase the amount of solid waste entering the waste stream. Additional quantities of solid waste, including construction debris, could be recycled at any permitted facility or disposed of at the Altamont Landfill. New capital equipment and personnel required to collect additional solid waste would be funded from user fees and charges (*less-than-significant impacts and no mitigation is required*).	No mitigation measures are needed.	

Topic/Impact	Significance/Mitigation Measure	Net Impact After Mitigation
Impact 4.6-5 (fire protection). Approval of the proposed annexation would place all of the Project area under the jurisdiction of the City of Hayward Fire Department. It would also increase the number of calls for service for fire protection and emergency medical response based upon eventual construction of new residences and non-residential development. Compliance with current Fire and Building Codes for all new individual development projects and extensions of the City's water service to the Project area would reduce this impact to a less-than-significant level (*less-than-significant impact and no mitigation is required*).	No mitigation measures are needed.	
Impact 4.6-7 (police protection). Approval of the proposed Project would place all of the Project area under the jurisdiction of the City of Hayward Police Department. It would also increase the number of calls for service for emergency services based upon eventual construction of new residences within the City of Hayward. Adherence to standard security measures imposed by the Police Department would reduce this impact to a less-than-significant level (*less-than-significant and no mitigation is required*).	No mitigation measures are needed.	

Topic/Impact	Significance/Mitigation Measure	Net Impact After Mitigation
Impact 4.6-8 (electrical and natural gas systems). Approval of the proposed Project would facilitate incremental increases in the demand for electrical power and natural gas in the Project area; however, suburban uses have occupied portions of the area for a number of years and capacity exists with extensions of service lines within the Project area to serve planned uses. Annexation of unincorporated lands within the Project area would have minimal effect upon power provision (*less-than-significant impact and no mitigation required*).	No mitigation measures are needed.	
Impact 4.6-9 (telecommunication facilities). Annexation of unincorporated lands to the City of Hayward would not affect provision of telecommunication to the Project area. Construction of new development would increase the demand for telecommunication facilities within the Project area. However, existing facilities can be extended to serve the site so the impact to telecommunication services would be less-than-significant (*less-than-significant impact and no mitigation required*).	No mitigation measures are needed.	

Topic/Impact	Significance/Mitigation Measure	Net Impact After Mitigation
Impact 4.7-1 (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 ~~7.3~~ 8.3 acres of parkland ***(potentially significant impact and mitigation required).***	**Mitigation Measure 4.7-1 (local and community park and recreation facilities). Payment of park in-lieu fees or dedication of parkland and or recreation facilities, as approved by HARD, at the time future development is permitted will ~~off-set~~ mitigate the demand for future parks. Possibilities for enhanced park and recreation facilities in and adjacent to the Project area may include the expansion 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** ***(less-than-significant impact and no mitigation is required).***	**Less-than-significant**
Impact 4.7-2 (library impacts). Future impacts to the library system would be minor ***(less-than-significant impact and no mitigation is required).***	No mitigation measures are needed.	

Topic/Impact	Significance/Mitigation Measure	Net Impact After Mitigation
Impact 4.7-3 (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 (*potentially significant and mitigation required*).	**Mitigation Measure 4.7-3 (local schools). 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.**	**Less-than-significant**
Impact 4.8-1 (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 (*potentially significant impact and mitigation required*).	**Mitigation Measure 4.8-1 (loss of trees). 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.**	**Less-than-significant**