



CITY OF HAYWARD AGENDA REPORT

Meeting Date 02/15/07
Agenda 1

TO: Planning Commission

FROM: Planning Manager

SUBJECT: Request by Eastshore Energy, LLC, for the City of Hayward to make a determination that a proposed 115 megawatt power plant (Eastshore Energy Center) proposed at 25101 Clawiter Road is consistent with General Plan policies and the Industrial Zoning District

RECOMMENDATION:

It is recommended that the Planning Commission recommend to the City Council that the Eastshore Energy Center is not consistent with the General Plan or the Industrial Zoning District.

DISCUSSION:

Summary of Process

The authority to license power plants in California that generate more than 50 megawatts of power rests with the California Energy Commission (CEC). The CEC is currently processing an application for this power plant, which was submitted by Tierra Energy in September of 2006. The CEC is scheduled to make a final determination on licensing this plant in November of this year, and construction is expected to begin in early 2008 and last for approximately 18 months. The plant is scheduled to begin full operation in late spring of 2009. On January 29, CEC staff conducted an informational workshop, site visit and hearing, and is continuing to receive and respond to information submitted by the applicant and the public, and will continue to process the application request during the next several months. At this point in the review process, City staff is seeking direction as to whether the Eastshore Energy Center power plant at the proposed site is consistent with the Industrial District of the Zoning Ordinance and applicable General Plan policies.

As part of the licensing process, the CEC must determine that a project conforms to what are called LORS – Local Ordinances, Regulations and Standards. Because a power plant is not a listed use within the Hayward Industrial Zoning District, and the Zoning Ordinance indicates that when a use is not specifically listed, it shall be “assumed that such uses are prohibited unless it is determined ...that the use is similar to and not more objectionable or intensive than the uses listed,” the Commission is being requested to

make a recommendation to the City Council regarding the proposed project's conformance with the General Plan policies and Industrial Zoning District designation.

The CEC is also processing a request from Calpine to amend their license approved in September of 2002, for the 600 megawatt Russell City Energy Center (RCEC), proposed at the end of Enterprise Avenue in Hayward. The amendment essentially entails a relocation of the proposed site approximately 1,300 feet to the northwest, resulting in a project site partially on the City's wastewater treatment facility site and partially on private property off Depot Road. The City Council in 2001, upon a recommendation from the Planning Commission, determined that the RCEC at its proposed location was consistent with a "Manufacturing" use, which is a permitted primary use listed in the Industrial Zoning District. Such determination was based largely on a determination that the RCEC power plant at that location was "similar to other existing uses in the Industrial District, such as the production of chemicals at the Rohm & Hass, Inc., plant," which is located to the southeast of that previously proposed site.

Attachment A is a map that shows the location of the proposed Eastshore Energy Center, as well as the previously and currently proposed locations of the Russell City Energy Center, along with distances from the EEC to residential and educational facilities and areas.

Project Description

A summary of the proposed power plant is attached, which includes sections from the full application packet that describe the project and summarize environmental impacts issues. The gas-fired intermediate/peaking power plant is to be utilized during periods of high demand, expected more frequently during the hotter, summer months. The project would entail construction of a 36-foot tall main building measuring approximately 30,000 square feet that would house 14 generators. Fourteen approximately 70-foot tall engine stacks would be located by the generator systems adjacent to the main building. Two radiator banks/shelters, each approximately 185 feet long and 20 feet tall, would be located along the north side of the property by the plant stacks, and a 115 kV electrical switchyard and related facilities would be located in the front of the site. Two, 10,000-gallon aqueous ammonia tanks would be located to the rear of the building. The ammonia, a regulated hazardous material, would be trucked to the site and stored in tanks to be used in the gas-burning process to reduce noxious oxide emissions. Also proposed would be approximately 1.1 miles of 115 kV transmission lines along Clawiter Road that would cross State Highway 92 and connect to the PG&E Eastshore Substation. The power lines, including existing 12 kV power lines, would be supported by new, 90-foot tall transmission poles. A temporary construction laydown and parking area immediately across Clawiter Road on the northern portion of the Berkeley Farms site is also proposed.

The use of the power generated by the facility, equal to demand of 95,000 homes, would be for the San Francisco Bay area and determined by the State in coordination with PG&E through its Power Purchase Agreement with Tierra Energy.

Promoting Knowledge-Based Industries

Changes in development activity have had an impact on Hayward's Industrial Corridor with resulting new industries. This transition is reflected in the growth in employment in certain job sectors. A report issued in 2000 by the Bay Area Economic Forum, *Leading the Transition to a Knowledge-Based Economy*, focused on those industry clusters that drive innovation, economic growth, and job generation in the region. An industry cluster is a group of businesses that tend to locate and grow in close relation to one another. By examining these clusters, researchers can anticipate growth and contractions in a regional economy.

In the Bay Area, the knowledge-based industry clusters consist of the computer and electronics industry, telecommunications, multimedia, movie/TV production, biotechnology, environmental technology, and travel and tourism. The number of Bay Area jobs in these clusters is projected to grow by 59 percent between 1995 and 2020, as compared to 45 percent for all jobs in the region. In Hayward, high value jobs that are technology related are limited compared to neighboring cities.

Given the physical and operational characteristics of a power plant, staff is concerned with the proposed location of the Eastshore Energy Center, because it may represent a deterrent to future knowledge or technology-based industries locating in this area of Hayward. Associated with this concern, many of the biotechnology firms in Hayward are concentrated in the areas in the vicinity of the Clawiter Road and Industrial Boulevard corridors, particularly in areas in close proximity to Highway 92.

Relevant policies and objectives from the General Plan are found in the Economic Development Chapter, and are noted below:

- 2. Create a sound local economy that attracts investment, increases the tax base, creates employment opportunities for residents and generates public revenues.**
 5. Ensure that an adequate supply of land is zoned for industrial and business park uses; limit uses that would erode the integrity of the Business and Technology Corridor.
 7. Promote and protect the appearance of the Business and Technology Corridor to encourage quality development.

Zoning and General Plan Consistency

This area is classified as "Industrial Corridor" in the General Plan and the site is zoned Industrial. The purpose of the Industrial Zoning District is "to provide for and encourage the development of industrial uses in areas suitable for same, and to promote a desirable and attractive working environment with a minimum of detriment to surrounding properties." As with other zoning districts, a variety of uses requiring different levels of review and processing are listed as being allowed in the Industrial Zoning District. Generally, more impacting uses require an administrative or conditional use permit, which allows discretion on the part of the City decision-makers in determining whether

or not a use is appropriate. As reflected in the purpose of the district, location is a key consideration in that determination.

A determination relative to conformity is being requested as to whether the proposed Eastshore Energy Center (EEC) at this location is consistent with the General Plan policies and the uses that would be allowed at this location in the Industrial Zoning District. The proposed plant, due to the presence and amount of on-site storage and use of aqueous ammonia, would require an administrative use permit were it processed through the local permitting process. Also, a project of this magnitude would typically be referred to the Planning Commission for consideration. Such process would allow City decision-makers to determine whether the plant would be desirable for the public convenience or welfare, whether it would impair the integrity and character of the surrounding area and whether the use would be in harmony with applicable City policies. Attachment A shows the proximity of the proposed plant to residential and educational facilities in the area. The nearest residence is approximately 1,100 feet to the northeast, with the 293 unit Waterford Apartment complex located some 1,800 feet away. The Life Chiropractic College is located directly across Clawiter Road from the plant site, and Ochoa Middle School and Eden Gardens Elementary located approximately roughly a half-mile away at 3,000 and 3,500 feet, respectively.

Staff would suggest that the facility at this location is not consistent with the City policies and would be more appropriately sited further west in the Industrial Corridor, where more traditional, greater-impacting industrial uses are more common.

Although there are no height limitations in the Industrial Zoning District, staff is also concerned with the visual impacts that the fourteen, 70-foot tall stacks would generate along this eastern section of the Industrial Corridor. The stacks would be visible from various locations throughout the area, including from the residential areas to the east.

Environmental Review

According to the State Law, power plant projects are not subject to the California Environmental Quality Act. Instead, they are subject to a similar process performed by the California Energy Commission (CEC). The CEC reviews every aspect of the project, conducts numerous hearings, and determines what the various potential impacts of the project may be. The review areas include, but are not limited to: Environmental Information, Air Quality, Biological Resources, Cultural Resources, Land Use, Noise, Public Health, Worker Health and Safety, Socioeconomics, Agriculture and Soils, Traffic and Transportation, Visual Resources, Hazardous Materials Handling, Waste Management, Water Resources, Geologic Hazards and Resources, Paleontological Resources and Alternative Sites Analyses. As part of the review process, which will continue for the next several months until the decision hearing before the California Energy Commission, there will be public hearings and community meetings to facilitate the public input.

As mentioned previously, a series of meetings was held recently, including a data response/issue resolution workshop, which was attended by City staff. Members of the

CEC staff summarized concerns and responses to various environmental topic areas, including those related to air quality. A member of the Bay Area Air Quality Management District staff was also present at the workshop. City staff will continue to closely monitor the process and provide input to CEC staff related to areas of concern.

As indicated in the attached letter to CEC staff, City staff has already relayed concerns associated with a variety of issues, including cumulative impact and alternative sites analyses, given another power plant is proposed in Hayward. Staff feels alternative site location criteria were identified in the application without setting a foundation or providing background information for such analysis. For example, no alternative sites were identified outside Hayward, including near the Fremont PG&E substation, nor was there included a detailed analysis why a minimum six-acre site is required. All six of the alternative sites identified in the application are located further from residential areas than is the proposed site. Those six sites are PG&E land adjacent to PG&E's Eastshore Substation, a private "pallet" yard property located west of the proposed site near the west end of Depot Road, the City's wastewater treatment facility site along Enterprise Avenue and three industrial/commercial buildings/storage yard sites (located along Depot Road, at 26599 Corporate Avenue and at 26460 Corporate Avenue).

Staff will continue to work with CEC staff to ensure concerns are addressed throughout the application review process.

PUBLIC NOTICE:

Notice of this hearing was sent to property owners within 300 feet of the subject site and to the applicant on February 5 and published in the local newspaper on February 7. Also, notices were sent to owners of residential properties along Depot Road, including to the tenants of the 293-unit Waterford Apartment complex.

CONCLUSION:

In staff's opinion, the use at the proposed location is not in conformity with the policies and purpose of the General Plan and the uses that would be allowed at this site in the Industrial Zoning District, for the reasons outlined in this report.

Prepared by:



David Rizk, AICP
Planning Manager

**DUE TO THE COLOR AND LENGTH
OF ATTACHMENTS A AND B, THEY
HAVE BEEN ATTACHED AS
SEPARATE LINKS**



CITY OF
HAYWARD
HEART OF THE BAY

January 12, 2007

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

Re: Eastshore Energy Center – Items for Discussion with Hayward Staff

Dear Mr. Prescott:

As we discussed, below is a summary of the issues we would like to discuss with CEC staff related to the proposed Eastshore Energy Center in Hayward.

Traffic and Transportation

- ◆ The traffic study prepared for the project used a different methodology to determine impacts to levels of service (ICU versus Highway Capacity Manual that is used by Hayward), which makes it difficult to compare project impacts to existing or future impacts without the project, as anticipated by City
- ◆ Incorrect method (ICU) was applied to analyzing an unsignalized intersection significantly impacted by construction traffic when properly analyzed
- ◆ Lack of information regarding cumulative impacts both during construction of both the Eastshore Energy Center and the Russell City Energy Plant, particularly related to the impacts at nearby intersections, especially Clawiter/Depot and Clawiter/Route 92.

Utilities

- ◆ More detailed analysis and specific ways to monitor discharged effluent to City's wastewater treatment plant

Hazardous Materials

- ◆ Lack of analysis related to impacts of potential need for additional staffing for Hayward Fire Department related to the operation of the plant
- ◆ Phase I analysis does not have the professional's stamp and more importantly, doesn't identify local underground plumes of contamination in the area; concern that analysis is not specific to proposed project and area
- ◆ Local regulations do not allow above-ground storage of more than 600 gallons of flammable material (two 10,000-gallon aqueous ammonia tanks are proposed)

- ◆ Lack of analysis of air quality impacts should accidental release of aqueous ammonia occur

Air Quality

- ◆ Analysis does not adequately identify number and proximity to sensitive receptors in the area (schools, day care centers, convalescent homes), nor adequately analyze potential air quality impacts to such residents/businesses associated with normal plant operations and accidental releases of hazardous materials
- ◆ Cumulative air quality impacts associated with operation of both the proposed plant and the Russell City Energy Center

Land Use

- ◆ More analysis should be included that addresses compatibility of proposed plant and associated hazardous materials to the area and the City's plans that envision more high-tech, business park-type uses along this portion of the City's Industrial Corridor

Aesthetics

- ◆ More analysis should be provided that addresses visual impacts and compatibility of fourteen, 70-foot tall stacks in an area that does not have such structures
- ◆ More analysis should be provided that addresses visual impacts and compatibility of 90-foot tall 115-kV distribution line towers along Clawiter Road and 200-foot high over-crossing over State Route 92
- ◆ Clarification of whether proposed 115-kV distribution line towers will replace existing 40 to 50-foot tall 12-kV poles (one section says existing poles will be replaced - bottom of page 8.11-6), another section says they may be replaced - top of page 1-4)
- ◆ Generally, the rationale and justification for rejecting the alternatives is limited and not particularly meaningful. A more expansive discussion is in order

Alternative Sites Analysis

- ◆ Expanded discussion as to why other sites in the East Bay and general vicinity were not considered should be included (page 9-4, for instance, indicates the new plant would need to be in close proximity to PG&E's Eastshore substation, but no reasons for such requirement are given)
- ◆ More explanation why other sites in the area were not considered should be provided, especially in regards to minimum six-acre site size requirements

Cumulative Impacts Analysis

- ◆ Expanded analysis that incorporates impacts of proposed Russell City Energy Center should be included, since that plant is proposed to be in operation

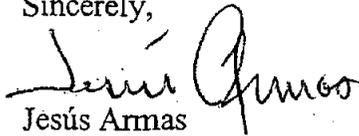
Benefits to the Local Community

- ◆ A summary of the benefits to Hayward and its residents should be included (Note that page 9-1 indicates one of the project objectives is to "provide much-needed reliable local power supply...to the Eastshore substation to meet the area's

demand." Will the local community actually benefit from the proposed plant, in terms of energy availability and production?)

Please let me know if you have any questions or need further clarification. I can be reached at 510.583.4305 or at jesusa@hayward-ca.gov. I look forward to your response and the upcoming January 29 data response workshop.

Sincerely,



Jesús Armas
City Manager

cc: Larry Arftsten, Fire Chief
Robert Bauman, Public Works Director
Susan J. Daluddung, Community and Economic Development Director
Greg Trewitt, Tierra Energy