

**DATE:** November 3, 2009

**TO:** Mayor and City Council

**FROM:** Development Services Director

**SUBJECT:** Mt. Eden Annexation Phase II –

- i. Adoption of a Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program;
- ii. Authorization of an Application to the Local Agency Formation Commission (LAFCo);
- iii. Approval of the Plan for Providing Municipal Services
- iv. Authorization of Execution of a Property Tax Exchange Agreement with Alameda County;
- v. Approval of Pre-Zoning Designations;
- vi. Approval of a Municipal Code Amendment Related to Sewer Connections, and
- vii. Approval of Summary Vacations of Ramona Drive and Eden Avenue Rights-of-Way.

The annexation area is located between West Street and Depot Road, generally along Mohr Drive in the Mt. Eden Neighborhood.

## **RECOMMENDATION**

That the City Council adopts the attached five resolutions that will:

- i. Adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program,
- ii. Request that the Local Agency Formation Commission of Alameda County (LAFCo) initiate proceedings for a change or organization involving the Mt. Eden Annexation Phase II properties,
- iii. Approve a Plan for Providing Municipal Services in relation to the Mt. Eden Annexation Phase II application,
- iv. Authorize the City Manager to negotiate and execute a property tax exchange agreement with Alameda County for the Mt. Eden Annexation Phase II project, and
- v. Summarily vacate Ramona Drive and a portion of Eden Avenue, reserving an easement for utility purposes while requiring public access over said vacated streets.

And, that the City Council approves the attached two ordinances that will:

- i. Pre-zone properties located in the Mt. Eden Annexation Phase II study area , and
- ii. Allow properties in the Mt. Eden Annexation Phase II study area up to 10 years to connect to the public sewer system, provided certain conditions are met.

## SUMMARY

The Mt. Eden Annexation Phase II project is identified in the City Council's adopted priorities for 2009 under *Land Use and Sustainability*, and involves a reorganization that consists of annexation of the last two unincorporated groups of parcels (islands) in Hayward and withdrawal of those islands from the Alameda County Library and Fire Districts, the Alameda County Road District No. 1, and the Alameda County Extended Police Protection County Service Area. The environmental Initial Study/Mitigated Negative Declaration (IS/MND) concludes that no significant unavoidable impacts would result from the proposed annexation, associated infrastructure improvements, or anticipated potential development that cannot be mitigated to a less-than-significant level. Recommended pre-zoning designations, used to determine development potential, generally match those reflected in the 1990 Mt. Eden Neighborhood Plan. The Fiscal Impact Analysis concludes that over a 20-year timeframe, the annexation would result in a cumulative net fiscal deficit to the City's General Fund of approximately \$1.5 million, or an average of \$75,000 per year.

As required by State law and the Alameda County Local Agency Formation Commission (LAFCo), a Plan for Providing Municipal Services (PPMS) has been prepared, which indicates adequate public facilities and infrastructure can be provided and will be funded.

## BACKGROUND

In the summer of 2003, the City initiated the Mt. Eden Annexation Study to determine the desirability and feasibility of annexing five unincorporated islands in the Mt. Eden area into the City of Hayward. However, due to concerns raised by area residents early in the process, only the three Phase I islands were ultimately annexed. Parcels in the Mohr-Depot Island and the West-Mohr Island, the Phase II islands, were not included in Phase I. That study included various focused analyses and community meetings held in the Mt. Eden area, as well as a walking tour of the entire neighborhood.

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

Dutra Enterprises, a private development company and the largest single property owner in the Saklan Road (Phase I) Island, agreed to provide financing for improvements. This includes funding for the installation of water and sewer mains, storm drainage facilities, and street improvements for Phase I; and a portion of the Phase II annexation improvements. A benefit district was formed in January of 2007 for the Phase I residential properties, providing a mechanism for future developers to pay their fair share of the costs for installation of public sewer and water facilities. The *Mt. Eden Redevelopment Sub-Area Annexation and Public Improvements Agreement*, which was amended in December of 2008, and the *Reimbursement Agreement* between the City and Dutra Enterprises, contain the terms and conditions for reimbursing Dutra Enterprises. Reimbursement of costs for the

Phase I improvements will be funded partially by the benefit district; and both Phase I and Phase II improvements will be funded by tax increment revenue funds generated by future development.

## DISCUSSION

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

The project area is approximately 61 acres, including 5.68 acres of road right-of-way, and contains 68 parcels located in two islands. The area is primarily developed with single-family residential parcels, all but four of which are developed. The area also includes the northern portion of the Chabot Community College property; the Hermann-Mohr Estate parcel located at the corner of Mohr Drive and Depot Road, which is being used as a drug and alcohol recovery center operated by Horizon Services; and the Mohr-Fry Estate parcel located along Hesperian Boulevard near Chabot College. Fire protection services are provided by the City of Hayward via a contract with Alameda County, and police services are provided primarily by the Alameda County Sheriff's Department.

Reasons for Annexation: The annexation was pursued for the following reasons:

- State law encourages the logical formation and determination of local agency boundaries;
- The Hayward General Plan encourages annexation of such islands; and
- There were property owners who expressed an interest in having their properties annexed into the City of Hayward, and developed; and
- The proposal is consistent with the Sphere of Influence of the City of Hayward; and
- The annexation is being proposed to provide for the orderly development of the Mt. Eden Area.

Furthermore, the efficiency with which services are delivered to the islands can be increased with the annexation. Additionally, when the City entered into the *Mt. Eden Redevelopment Sub-Area Annexation and Public Improvements Agreement* in December 2006, the City committed to pursuing the annexation of the Phase II islands. The Council's adoption of the attached draft resolution (Attachment III) will formally request LAFCo to process the City's application for annexation.

General Plan and Zoning: No changes to existing Hayward General Plan land use designations are anticipated as part of this project. The Mt. Eden Neighborhood Plan, which was adopted in 1990, included recommended pre-zoning designations for the annexation area. There are two changes to the Neighborhood Plan's pre-zoning designations proposed. The western-most property proposed for annexation, identified with a LI (Light Industrial) designation on Figure 7 of the Draft Initial Study, would be changed to a LM (Light Manufacturing) designation, as shown in the attached ordinance regarding recommended pre-zoning designations. The existing Zoning Ordinance does not have a LI zoning designation. Also, the portion of the Chabot College property that falls within

the project area would be changed from RS (Single-Family Residential) to PF (Public Facilities). Most public schools in Hayward are currently zoned RS and staff intends to eventually have them changed to PF.

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

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

Staff presented the idea of CN zoning at the neighborhood meeting on September 23, 2009, to assess neighborhood support for it. One meeting attendee opposed the CN pre-zoning, citing the problems that the liquor store to the north, the church on Mohr Drive, and the nearby apartments have caused in the neighborhood. Since the meeting, staff has received two e-mails from individuals opposed to the CN pre-zoning (see Attachment IV). In addition, staff received a petition with eight signatures (Attachment V) indicating support for the CN pre-zoning.

Finally, staff received an e-mail from Matthew Pratt on September 25, 2009 (Attachment IV) suggesting that all of the residential zoning in the annexation area have a minimum lot size of 4,000 square feet. Staff does not support Mr. Pratt's proposal. Staff is recommending RSB4 (Single-Family Residential with a 4,000 square-foot minimum lot size) only for the West-Mohr island and RS (Single-Family Residential with a 5,000 square-foot minimum lot size) for the Mohr-Depot island to be consistent with the pre-zoning designations recommended in the 1990 Mt. Eden Neighborhood Plan. Changing the Mohr-Depot island to RSB4 would increase the development potential of this area. Staff recommends against changing any pre-zoning designations at this time (to CN or RSB4) as the changes would require additional analysis in the environmental IS/MND and in the Fiscal Impact Analysis, which would likely delay the annexation approximately six months.

*Findings for Approval of Pre-Zoning Designations for the Mt. Eden Annexation Phase II:* Staff is recommending that the Ordinance Approving Pre-zoning Designations (Attachment VI) be approved. Staff has prepared the following findings for the approval of the pre-zoning designations

associated with the annexation. The findings are included in the attached draft resolution (Attachment VII).

- A. Substantial proof exists that the proposed zone changes will promote the public health, safety, convenience, and general welfare of the residents of Hayward.

The proposed annexation and associated public infrastructure improvements and future development would result in improved fire suppression capabilities, police protection, storm drain capacity, and roadways in the area. Police service should improve as the City can serve the area more efficiently than the County. Additionally, future development would be subject to City regulations and City development review, which is generally more intensive than that of the County in this area, which is expected to improve property conditions and reduce or eliminate any potentially harmful site contaminants.

- B. The proposed changes are in conformance with the purposes of the Zoning Ordinance and all applicable, officially adopted policies and plans.

The General Plan contains policies and strategies that encourage annexation of remaining unincorporated islands into the City:

- *Seek to achieve more congruous boundaries to provide for the efficient delivery of public services and to create a greater sense of community. (Land Use Chapter, Policy 11)*
- *Evaluate annexing unincorporated islands and adjoining urbanized county areas within the Sphere of Influence in light of desires of affected residents and fiscal impacts on the city. (Land Use Chapter, Policy 11, Strategy 1)*

The annexation will achieve more congruous boundaries for the City and the County and improvements in efficiency with which services can be provided are expected.

The Mt. Eden Neighborhood Plan contains a policy that encourages the Residential Single-Family (RS) and the RS-B4 (4,000 square foot minimum lot size) zoning districts that:

- *Allow "Limited Medium Density" development between West Street and Depot Road for continuity with density of recent small lot single-family development. (Residential Land Use, Policy 1, Strategy 2)*

The Limited Medium Density Residential (LMDR) General Plan designation allows between 8.7 and 12 residential units per acre, which is equivalent to lot sizes ranging from 5,006 to 3,630 square feet. The LMDR land use designation exists in the majority of the annexation area and no land use designation changes are proposed.

One of the purposes of the Hayward Zoning Ordinance is to "accommodate expansion of development into vacant and under-utilized lands within environmental and infrastructure constraints". The annexation will allow for in-fill development in the neighborhood as utility services are provided.

The purpose of the Light Manufacturing, Planning /Research and Development (LM) zoning district is “to provide for limited manufacturing and other light industrial uses within the Industrial Corridor which are compatible with business parks and adjacent residential areas.” Staff is recommending such designation for one property, consistent with that indicated in the Mt. Eden Neighborhood Plan, to provide a buffer between the properties zoned Industrial to the west, and residentially designated properties to the east.

The purpose of the Public Facilities (PF) zoning district is “to promote and encourage a suitable environment devoted to publicly owned government buildings and facilities, public community centers, libraries and museums, public educational facilities, public school districts facilities, public transit stations, public parking lots and structures, and other such uses directly or indirectly serving the general public.” The PF zoning designation that is recommended is consistent with the use of the property by Chabot College .

The purpose of the Agriculture (A) zoning district is to preserve agricultural areas until such time as orderly development may take place. The A zoning is appropriate for the Herman-Mohr and Mohr-Fry estates as these properties have development potential and the owners have yet to determine the most appropriate uses.

- C. Streets and public facilities existing or proposed are adequate to serve all uses permitted when property is reclassified.

As noted in the draft environmental IS/MND, proposed infrastructure improvements, including roadway improvements and widening, extension of public sewer lines, and upgrades to the existing storm drainage network, would be compliant with City standards and sufficient to serve potential future development.

- D. All uses permitted when property is reclassified will be compatible with present and potential future uses, and, further, a beneficial effect will be achieved that is not obtainable under existing regulations.

The Mohr-West and Mohr-Depot islands are completely surrounded by properties in the City. Existing residential uses will be zoned for residential use. The Chabot College property will be consistent with the PF zoning district. The home on the property on Depot Road to be zoned LM will become a legal, nonconforming use. The Mohr-Fry estate and the Herman-Mohr estate will be zoned agricultural to protect the potentially historic resources and to require discretionary approval prior to any change in use. Annexation and subsequent infrastructure improvements would allow for future development, which will lead to improved property conditions and aesthetics, which is currently not possible under existing conditions.

*Development Potential:* Based on the proposed pre-zoning designations, there would be a potential for 54 new housing units in the study area. Criteria considered in determining this potential included existing lot sizes and shapes, minimum lot sizes allowed by the pre-zoning designations, General Plan land use designations, land needed for right-of-way expansions, existing structures,

and environmental constraints. If the 54 new housing units are constructed, the number of homes would increase from 71 to 125, resulting in a population increase from 219 to approximately 385 persons. Staff and the consultant also reviewed the Master Plan for Chabot College and talked with specific land-owners, such as those of the Herman-Mohr estate and the Mohr-Fry estate, to estimate long-term development plans. The portion of the Chabot College property that lies within the annexation area is developed with playfields, including part of the football stadium, and no significant improvements are planned for the area. Horizon Services, which operates a group home for drug and alcohol recovery on the Herman-Mohr property, hopes to build transitional housing units on the property in the future. The owners of the Mohr-Fry estate would like to eventually develop the northern portion of their property while preserving the historic home, but they have no immediate plans.

*Amendment to Sewer Connection Ordinance:* Staff is recommending that an Ordinance (Attachment VIII) containing a special provision be adopted regarding sewer connections that would only become effective if annexation occurs. This will reduce financial impacts to owners in the annexation area, as was done for Phase I. The provision amends the section of the Public Utilities Chapter of the City's Municipal Code requiring connection to the public sewer system within 90 days if a property is located within 200 feet of such system. Specifically, as reflected in the attached ordinance, the Code amendment allows a property that is annexed in the Mt. Eden Phase II area and served by a private septic system up to 10 years to connect to the public sewer system, provided evidence is submitted annually that verifies that the septic system functions properly and provided no intensification of use on the property occurs, including addition of facilities or other changes that increase sewer discharge. The proposed changes to the ordinance also state that the annual inspection and verification may be performed by the property owner. Staff is developing a form that owners will use to provide evidence of the inspection to the City.

*Plan for Providing Municipal Services:* A resolution (Attachment IX) has been prepared for the Council's approval of a Plan for Providing Municipal Services. The Plan (Attachment IX-a) is required for any annexation and provides a summary of changes in service providers, as well as information and estimated costs, anticipated timing, and funding sources for needed infrastructure improvements. As indicated in the Plan, new sewer mains will be required in areas where they do not exist, as will new storm drain facilities, including installation of approximately 3,300 linear feet of 12 to 24-inch and 215 linear feet of 36-inch storm drain culverts in both islands. Water mains will not be necessary as the system recently acquired from the Mohrland Mutual Water Association (MMWA) is in good condition. Also, as stated above, those on private septic systems will need to connect to City sewer within 10 years, reflective of the proposed ordinance amendment.

- *Planned Street Improvements* – Most streets in the annexation area do not meet City standards. As part of the annexation process, the street infrastructure would be upgraded to City standards with the installation of paving, curbs, gutters, sidewalks, and street lighting. The streets to receive improvements include Mohr Drive, Laguna Drive, Occidental Road, Monte Vista Drive, and Depot Road. The barricade on Monte Vista Drive between Occidental Road and Laguna Drive would be removed. Construction of street and utility improvements is expected to begin in May 2010 and be completed by February 2011. The scheduled improvements will not impact other annual paving projects for FY10 and FY11 throughout the City as they are all included

in the current approved Capital Improvement Program and staff expects to deliver all of them on time.

- Right-of-Way Acquisition -- As indicated in the attached Right-of-Way Exhibit (Attachment X), right-of-way would need to be acquired from the north side of Depot Road, and along portions of Mohr Drive, Monte Vista Drive, and Occidental Road in order to bring these streets up to City standards. The Public Works Department expects to acquire all necessary right-of-way by March of 2010. Ramona Drive would be left as a private street to be maintained by the adjacent property owners. The right-of-way for Eden Avenue, south of Occidental Road, is currently not used as a street and would be abandoned, with such area reverting to adjacent property owners.
- Vacation of Ramona Drive and Portion of Eden Avenue – A resolution (Attachment XI) has been prepared for the Council to summarily vacate Ramona Drive and a portion of Eden Avenue. Ramona Drive and the portion of Eden Avenue southerly of Laguna Drive were established in 1928 by the Tract of Mohrland Gardens, Book 7 of Maps, Page 60. These streets were offered for dedication to the public by this map, but were never accepted by the County Board of Supervisors as public streets. Therefore, the streets have been used as private access for the owners adjacent to them. A portion of Eden Avenue was widened by 24 feet for a total width of 44 feet by an offer of dedication by Parcel Map 7785 and accepted by the City in 2001. This portion has an easement for a storm drain. These streets should be summarily vacated by the City to clear up any title issues that may arise.

Ramona Drive will be vacated from the westerly line of Monte Vista Drive to the westerly line of Eden Avenue. Eden Avenue will be vacated from the northerly line of Ramona Drive to a line 10 feet southerly of the southerly line of Occidental Road and from a line 10 feet northerly of the northerly line of Occidental Road to the southerly line of Laguna Drive, while reserving a utilities easement.

Property Tax Exchange Agreement: Before LAFCo can act on the proposed annexation, a tax-sharing agreement must be executed by the City and Alameda County. Attachment XII is a draft resolution authorizing the City Manager to execute the agreement. The draft agreement (Attachment XII-a), which has been reviewed and approved by the City Attorney, is a standard agreement provided by the County and it is essentially the same agreement that was used for Phase I. the agreement addresses property taxes from the base assessed values, not tax increment. Staff expects to have the County Board of Supervisors consider the draft agreement at their November 17, 2009 meeting.

As mentioned above, the *Mt. Eden Redevelopment Sub-Area Annexation and Public Improvements Agreement*, which addressed both annexation phases, stipulates that the tax increment will be collected by the Alameda County Redevelopment Agency and used to pay Dutra Enterprises and County and City funds that have advanced money for public improvements in both phases.

Environmental Review: A draft environmental Initial Study and Mitigated Negative Declaration (IS/MND) (Attachment XIII) have been prepared pursuant to the California Environmental Quality

Act (CEQA). The IS/MND analyzes the potential environmental impacts associated with the annexation and the related development potential. The MND states that there are no significant environmental impacts that cannot be mitigated to a level that is less than significant. A detailed account of the insignificant impacts can be found in the draft IS/MND. The draft IS/MND was presented to the Planning Commission during a work session on September 17, 2009. The draft IS/MND, which is required to have a minimum 20-day public review period, was released for public comment on August 28, 2009. The public comment period ended on September 29, 2009. No comments were received for the draft IS/MND. Since the draft IS/MND was released, a few errors have been discovered and corrected. An errata (Attachment XIV) has been prepared to identify the changes. Staff has prepared a Mitigation Monitoring and Reporting Program (MMRP), attached as Attachment XV, which indicates timing and responsibility of implementation of mitigation measures. Finally, staff received a letter from the LAFCo dated September 29, 2009 stating that they have no comments on the IS/MND (Attachment IV).

*Planning Commission Review:* The Planning Commission held a work session on September 17, 2009 to review and discuss the draft IS/MND, the draft Fiscal Impact Analysis, and the proposed street and utility improvements. Questions raised by the Commissioners at the work session, including questions associated with the fiscal impact analysis are summarized in the attached Planning Commission report dated October 15, 2009 (Attachment XVI).

The Planning Commission held a public hearing on October 15, 2009 and voted 6:1 to recommend approval of the Mt. Eden Annexation Phase II. (See Attachment XVII for meeting minutes.) The motion to approve the annexation included a recommendation that the Council approves signage identifying the Mt. Eden neighborhood as requested in the letter from Anthony Varni (Attachment IV). The Commission discussed at length the Neighborhood Commercial (CN) pre-zoning that was requested for two properties on Depot Road (see later discussion). A motion to recommend approval of the CN zoning failed 3:4. Staff recommends against the CN pre-zoning, because the City cannot be assured that the commercial development would include the parcels to the west to make a more desirable retail site. Staff also recommends that a specific project proposal be submitted in the future, along with an application for rezoning, to ensure that a high-quality development would result from the zone change.

## **FISCAL AND ECONOMIC IMPACT**

The Alameda County Redevelopment Agency will reimburse the City for costs associated with processing the Phase II reorganization (annexation) application up to \$179,000. Terms of the reimbursement are set forth in the *Mt. Eden Redevelopment Sub-Area Annexation and Public Improvements Agreement*, which was reached between the City of Hayward and Alameda County during the Phase I annexation. The Agreement also requires the City to “use diligent good faith efforts to cause completion, within one (1) year after the approval and effectiveness of the Phase I Annexation, of all administrative and procedural requirements for annexation of the Phase II Annexation Area.”

At the time the agreement was signed, the estimated cost of the public improvements was \$5 million. A revised estimate for the cost of improvements calculated a cost of approximately \$7.4 million. In December of 2008, the agreement was amended to reflect the latest cost estimate and

stipulated that the City of Hayward and Alameda County share equal responsibility in the additional expense (\$1.2 million each). The original and amended agreements include the following contributions:

	Original Agreement	Amended Agreement
Dutra Enterprises	\$3,600,000	\$3,600,000
Alameda County	\$700,000	\$1,900,000
City of Hayward	\$700,000	\$1,900,000
<b>Total</b>	<b>\$5,000,000</b>	<b>\$7,400,000</b>

The City’s recently adopted Capital Improvement Program includes \$7.4 million in the Street System Improvement Fund specifically for this project. The source of the money in the Fund is Proposition 42, the Transportation Congestion Improvement Act, which directs state sales tax revenues toward public transit and street improvements. The amended agreement with the County also indicates December 31, 2009, as the anticipated completion date for the annexation.

The additional \$1.2 million agreed to by the County is being provided by the County Public Works Agency primarily from gas tax revenue. If the State does not provide the gas tax, then the County could not meet their commitment to fund this project. If the availability of gas tax revenue changes prior to LAFCo action, the City would likely delay requesting the annexation.

A revised Fiscal Impact Analysis (Attachment XVIII) has been prepared to show the expected property tax increment to be generated in the annexation area. Also, the original draft assumed that the development potential would be realized by 2016. The revised Fiscal Impact Analysis assumes that it will take 20 years for the new residential units to be constructed. The change in the build-out timeframe has caused the estimates for both revenue and costs to decrease.

	Original Estimate	Revised Analysis
Cumulative Revenue	\$3,065,273	\$2,494,686
Cumulative Cost	\$4,585,904	\$3,971,550
<b>Net Fiscal Impact</b>	<b>\$1,520,631</b>	<b>(\$1,476,864)</b>

The revised Fiscal Impact Analysis, in response to the Planning Commission’s questions about property tax increment, also includes a new section on page 12 indicating that the anticipated tax increment revenue over a 30-year period is approximately \$5 million.

The agreement between the City and the County executed for the Phase I annexation allows the County Redevelopment Agency to keep 100 percent of tax increment revenue for the life of the redevelopment area (scheduled to expire in 2039) to fund the County’s reimbursement payments to the City for Phase I and Phase II improvements. If more revenue is collected than is needed to cover the cost of the improvements, then the funds would be used for other capital improvements in the redevelopment area.

If the County’s share of the State gas tax becomes unavailable prior to annexation, then the City would wait for the economic conditions to change before pursuing the annexation. If the gas tax

becomes unavailable after the annexation is approved by LAFCo, then the City will delay construction of the improvements until the gas tax revenue has been transferred.

If, after annexation, property values drop even more and development takes longer than projected, then it will take longer for the tax increment revenue to pay off the loans. In this case, the City might consider creating a City redevelopment area (RDA) in 2039 to recoup costs and continue repaying loans. However, to establish an RDA thirty years from now, a determination that blight still exists in the area would need to be made. Staff expects that anticipated development will occur by 2039. Based on staff's past experience with the Phase II neighborhood, the formation of an assessment district would not be an acceptable alternative to paying off the loans for infrastructure.

## **PUBLIC CONTACT**

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

The second neighborhood meeting was held at Ochoa Middle School on Wednesday, September 23, 2009 to inform the community of the planned improvements and to collect comments on the draft IS/MND. The Planning Commission report dated October 15, 2009 (Attachment XVI) includes a list of the comments received during the meeting and staff's responses.

Also, staff received letters from Anthony Varni dated September 28, 2009 and October 14, 2009 (Attachment IV). Mr. Varni represents the owners of the Mohr-Fry estate located at 24985 Hesperian Boulevard and raises the following three points in his letter:

1. The City should implement a signage program on major streets in the Mt. Eden area to identify it as the Mt. Eden borough or Mt. Eden neighborhood.
2. The Fry family should have at least ten years to connect to City utilities.
3. The Agricultural pre-zoning designation should be considered a "holding zone". The owners do not intend to use the property for agricultural purposes indefinitely and they will likely want to develop the property for other uses in the future.

Staff supports the idea of a signage program to help raise awareness of the neighborhood's history, but has yet to identify a funding source for a signage program. If the Council supports the concept of a signage program, it may be incorporated into a future Capital Improvement Program (CIP). All properties in the annexation area will have up to ten years to connect to the City's sewer system. As long as a property's existing well is functioning properly, connection to the City's water system will not be required until new development is proposed for the property. When the owners submit a proposal for a change in the zoning designation, it will be evaluated and presented to the Planning Commission and City Council just as would be done for any other zone change application in the City. The desire of the owner to eventually pursue future development is noted as part of the public record.

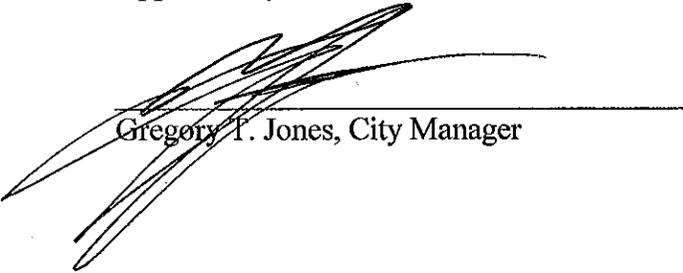
## **SCHEDULE**

Providing Council approves the annexation as presented herein, staff will forward the draft Tax Sharing Agreement to Alameda County for consideration by the Board of Supervisors at their regular meeting on November 17, 2009. Staff anticipates submitting an application to LAFCo by November 13, 2009, in anticipation of a LAFCo hearing on January 14, 2010, assuming funding for the improvements associated with the State's position on gas tax revenues does not create an issue.

Prepared by:  
Erik J. Pearson, AICP, Senior Planner

Recommended by:  
David Rizk, AICP, Development Services Director

Approved by:



Gregory T. Jones, City Manager

## Attachments

Attachment I:	Map Showing Five Islands
Attachment II:	Area Map
Attachment III:	Draft Resolution for Application to LAFCo
Attachment III-a:	Draft Legal Description of Annexation Area
Attachment IV:	Comment Letters and E-mails
Attachment V:	Petition for CN Pre-zoning
Attachment VI:	Draft Ordinance for Pre-zoning
Attachment VI-a:	Map Showing Pre-zoning Designations
Attachment VI-b:	List of Parcels by Assessor's Parcel Number and Street Address with Proposed Pre-zoning Designations Identified
Attachment VII:	Draft Resolution for MND, Pre-zoning and Sewer Connection
Attachment VIII:	Draft Ordinance for Sewer Connection
Attachment VIII-a:	Map of Phase II Annexation Area
Attachment VIII-b:	List of Parcels by Assessor's Parcel Number and Street Address with Proposed Pre-zoning Designations Identified
Attachment IX:	Draft Resolution for Plan for Providing Municipal Services
Attachment IX-a:	Plan for Providing Municipal Services
Attachment X:	Right-of-Way Exhibit
Attachment XI:	Draft Resolution for Right-of-Way Vacation
Attachment XI-a:	Map Showing Right-of-Way to be Vacated
Attachment XII:	Draft Resolution for Property Tax Exchange Agreement
Attachment XII-a:	Draft Tax Sharing Agreement with Alameda County
Attachment XII-a-1:	Exhibit A-1 (Map) for Draft Tax Sharing Agreement
Attachment XII-a-2:	Exhibit A-2 (Parcel List) for Draft Tax Sharing Agreement
Attachment XIII:	Mitigated Negative Declaration/Initial Study (MND/IS), dated August, 2009
Attachment XIV:	Errata for IS/MND, dated October, 2009
Attachment XV:	Mitigation Monitoring and Reporting Program
Attachment XVI:	Planning Commission Agenda Report dated October 15, 2009 (without attachments)
Attachment XVII:	Minutes from Planning Commission Public Hearing on October 15, 2009
Attachment XVIII:	Revised Fiscal Impact Analysis

10/27/2009