



H A Y W A R D A R E A P L A N N I N G A S S O C I A T I O N

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The HAPA News

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Hayward Updating General Plan

The City of Hayward has begun the process of updating its General Plan, and is asking for volunteers to serve on the General Plan Task Force. Interested?

The General Plan is the City's basic blueprint for development; guiding growth and land use citywide. Citizen input and ideas are encouraged. A webpage has been set up with all the news and information about the General Plan update: www.hayward-ca.gov/generalplan.

The City of Hayward the new General Plan Task Force will play a crucial role advising City staff during the development of the new General Plan.

If you're a Hayward resident and interested in being on the Task Force, an application is on the website. High school students are encouraged to apply, too! Subscribe to the City's email list to stay informed about upcoming meetings and other progress with the update.

Finally, if you know someone or a neighborhood/civic group that might be interested in this information, please forward them this email.

For more information, contact: Erik Pearson, Senior Planner, Planning Division
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CalTrans House for Auction

The CalTrans-owned house at 1273 Highland Blvd., Hayward, is being offered for public auction. It's open for viewing from 10 a.m. to 1 p.m. on August 23 and 30, and September 8. Minimum bid is \$170,000, with \$1,000 cashier's check or money order required as an option deposit.

The two-bedroom, one bath home is 966 sq. ft., on a 9,497 sq. ft. lot, with, and has a one-car attached garage. Built in 1940, the house probably contains lead-based paint and asbestos. It is offered in "as-is" condition. [See chart below for current comparable sales.]

For further information, contact Shirley Dillard at 510-286-5355, or by email at Shirley.dillard@dot.ca.gov (www.dot.ca.gov/property).

Recent sales on Overlook (May and June 2012)

Property Address	Physical Description	Lot Sq. Ft.	Unit SF	Zoning	Unit Price
1199 Overlook	House, new owner July 2012	9,000	2,508	SMU	\$332,000
1187 Overlook	House, new owner July 2012	10,406	1,455	SMU	\$242,000
1175 Overlook	House, new owner July 2012	8,719	2,536	SMU	\$327,000
1174 Overlook	House, sold to tenant, May 2012			SMU	\$230,000



Bayview Village Book Update

I've submitted a proposal to University of California Press to publish my book on Bayview Village. My hope is that the project might get more attention and get an investor that way. I may, however, have to do an e-book first, and then seek real publication. We can use the book to write some articles for different magazines and newsletters, and if someone gets interested they will have the book for more detail.



Further Update on HAPA and City of Hayward v. CSU Trustees

David Schonbrunn, President of Transportation Solutions Defense and Education Fund (TRANSDEF), submitted the following *amicus curiae* letter to Chief Justice Sakauye and Associate Justices of the California Supreme Court, in support of the petition for review in this case:

Pursuant to Rule 8.500(g) of the California Rules of Court, *amicus curiae* Transportation Solutions Defense and Education Fund (TRANSDEF) submits this letter in support of the petition for review filed by the respondents in the consolidated cases *City of Hayward v. Board of Trustees of the California State University and Hayward Area Planning Assn. et al. v. Board of Trustees of the California State University* (Case No. S203939; Court of Appeal case numbers A131412, A131413, A132423, and A132423). These cases present important public policy issues, and some of the issues in these cases are already before the Court in *City of San Diego v. Board of Trustees of the California State University* (S199557, Review Granted).

TRANSDEF is a California non-profit environmental group advocating and litigating in the areas of transportation, land use and climate change. Our interest in this case is to

preserve the effectiveness of California Environmental Quality Act (CEQA) as a structured public process for the identification of environmental impacts, and the analysis of project alternatives and mitigation measures. Because motor vehicles are the largest source in California of the greenhouse gases (GHGs) that cause climate change, our climate change work includes proposing mitigations that reduce the total amount of driving. CEQA has been a critical tool for us in insisting that project sponsors address the avoidance and mitigation of climate change impacts.

The instant case is directly relevant to our area of practice. In the context of the State's major policy decisions to reduce GHGs (AB 32 and SB 375), we often propose that EIRs analyze alternatives we designed to reduce driving. If the Appellate Decision is allowed to stand, it could destroy the alternatives analysis process that is, for us, the heart of CEQA.

Review should be granted to resolve potential conflicts in case law and to address important public policy issues. A major issue common to this case and *San Diego* was decided by the Court in *City of Marina v Board of Trustees of the California State University* (2006) 39 Cal.4th 341. In all three cases, the University requested mitigation funds from the legislature, but, because it could not guarantee the availability of those funds, claimed under CEQA the impact to be "significant and unavoidable." The question before the Court in the *City of San Diego* case, and also presented in these cases, is whether requesting funds from the legislature suffices to satisfy CEQA, and, by extension, whether the duty to mitigate off-site impacts can be limited to use of a specific source of funds.

The *City of Hayward* cases also have other important legal and policy questions that overlap with the pending *City of San Diego* case:

- 1 Were the Trustees justified in refusing to consider an alternative from the public (HAPA's "real transit" proposal) that might have avoided altogether the off-campus transportation impacts of a parking structure?
- 2 Is a consultant's arbitrary assertion, unsupported by evidence, adequate under CEQA to support the Trustees' conclusions on the infeasibility of an alternative proposed by the public?
- 3 Were the Trustees justified in deferring study of mitigation measures for transportation impacts until some time considerably after EIR certification and project approval?
- 4 Was a list of poorly defined mitigation measures adequate in the absence of enforceable performance standards?

Much CEQA litigation over the treatment of alternatives and mitigation measures could be avoided if this Court would clarify an agency's duties under CEQA.

On the issue of consultant opinions, CEQA and other science-based statutes often rely on professional consultants in specialized technical areas. Agencies use consultants' opinions to justify agency action, regardless of whether the consultant has provided evidence supporting the opinion. Project applicants who pay consultant's bills create a conflict of interest. Guidance from the Court would clarify a consultant's proper role in preparing studies and reports and making recommendations to the lead agency, so that highly detailed

feasible alternatives are not dismissed by a consultant's arbitrary assumption and by agency misrepresentations of the facts.

TRANSDEF has observed that, all too often, agencies rely on their experts' opinions to support preconceived policies, while never substantively dealing with detailed objections raised by outside experts. The trial court opinion was strong and clear on this issue; the appellate court reversed with no reasons given.

The pending *City of San Diego* case and these *City of Hayward* cases raise another important public policy issue: Should a project's effects on fire protection services on campus and in the larger community be considered an impact on the environment under CEQA? We are concerned that the Appellate decision could harm the ability of local government to require project sponsors to pay their fair share for public safety. In this era of declining public financial resources from either taxes or fees, and with some local agencies dealing with bankruptcy, loss of the ability to assess mitigation fees to address the increase in service needs would be catastrophic and counter to CEQA's mandate "to afford the fullest possible protection to the environment within the reasonable scope of the statutory language" (*Friends of Mammoth v. Board of Supervisors* (1972) 8 Cal.3d 247, 259).

We understand cost-effective transit to be a critical element of California's future, while subsidized parking structures, which encourage single-occupant driving, with its consequent increases in congestion and pollution, to be our past. In short, the way CEQA addresses the issues raised in the instant review petition will materially affect the shape of California's future. For these reasons, the Court should grant review of the *City of Hayward* cases and address the important public policy issues they present.

Sincerely,

David Schonbrunn, President
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