



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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Update on Bayview Village

Recent headline: "Close to 'tipping point' of global warming." I disagree; I think it's too late because of the inertia of the oceans and the inertia of American car culture. The problem with our culture is not only, or even primarily, dependency on cars, but on the dozens of ways markets are tilted by indirect pricing to favor use of cars, undermining the productivity of the whole economy. Few Americans understand the need for pricing reform, let alone the gradualist policies that would work and also have other benefits. It may depend on how much their thinking is governed by a commitment to cars as the dominant mode of everyday personal travel.

Do real estate investors think about how to profit from global warming?

We've been trying for many months to find investors with no luck, but we're still looking for investors willing to spend some time studying Bayview Village. It is not your typical investment.

- It is not something you would look at and decide; it takes time to understand the many ideas involved.
- It is not small; at over 1,000 units it is a very big project, reducing the number of potential investors.
- It is not based on the conventional system of cars next to bedrooms, nor is it at all car-free; it proposes a multifaceted and flexible alternative mobility.
- It is not based on any life-style market, which could work in the inner bay cities, but rather on affordability, providing combined housing, energy, and mobility at a far lower cost, and with more amenities.
- We don't need a lot of equity up front, just enough to control land, and pursue entitlement while seeking debt funding.
- It could involve a housing agency if we can get the state to approve unbundling.
- It should include a public-private partnership to reduce up-front land costs while giving Caltrans a good return as houses are sold. [Caltrans has started to sell small parcels of the properties we need to assemble for the project: You can obtain information at www.dot.ca.gov/property, July 11, three fixer-upper houses on Overlook Ave. See letter to CalTrans, below.]
- It is not based on today's miserable market; it is based on markets four-five years from now--financial, a return to usual home-ownership, some price recovery, more concern about gas prices and a desire to live in a friendly, sustainable community.

We're not looking for managers; we're looking for entrepreneurs. How do I reach more people with big bucks who are interested in a nationally significant proposal for a sustainable neighborhood?

I've decided to write a book about Bayview Village in hopes that the project might get more attention and get an investor that way. I think I can do an e-book, and then seek real publication. We can then 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.

I'm also revising the project to incorporate the concept of "transitional parking." The idea is to put hopefully temporary parking in Phase 11 while people are buying units in Phases 1-4. If necessary, we can add temporary parking in Phases 10 and 9. Transitional parking gives people a chance to figure out if they really need to have a car close to their house, and also gives the HOA managers a chance to make an extra effort to find ways to meet the mobility needs of residents. We can use the initial HOA dues cash flow to hone the options to meet needs.

People might find for example that they can keep their car parked cheaply off site for longer trips like vacations, and use the bus, the zip car, taxi vouchers, for other means for most of their trips. Part of the idea also includes giving residents a big financial incentive to not have a car on site. I'm trying to figure out the opportunity cost of the parking; it might run about \$300/month to lease a space. A resident could save \$3600/year by giving up the leased space.

My previous updates were being sent to a more limited list than this one. I've decided that there may be some way to involve affordable housing agencies in the project if we can set up "unbundling" with the tax credit allocation board of the State of California. More of you are getting this because you have some kind of commitment to smart growth, and your knowledge of this project might help us find an investor.

A few days ago I talked to Professor Rick Peizer at the Harvard School of Design. He reminded me that Bayview Village is really a very big project. I suspect conventional real estate investors will continue to ignore it, so I'm hoping someone who has struck it rich in the Bay Area might get intrigued enough to share the vision.



Election Results

Primary Election 2012 is behind us. Of the 752,331 registered voters in Alameda County, 239,304 turned out to vote, or 32%. Following are the final City of Hayward election results:

Candidate	Final Vote Tally	Percent of Votes Cast
Barbara Halliday	8464	18.5
Greg Jones	7481	16.2
Al Mendall	7312	16.0
Francisco Zermeño	7181	15.6
Olden Henson	6535	14.3

We thank outgoing Councilmember Olden Henson for his many years of service to the City of Hayward. Outgoing Councilmember Bill Quirk is running for State Assembly against Jennifer Ong, with the vote November 2012 election.



HAPA Request to CalTrans

The following letter was sent on June 22, 2012, to five CalTrans recipients in the Oakland office: Bijan Sartipi, District Director; Mark Weaver, Deputy District Director, Right of Way; Linda Emadzadeh, Airspace, Excess Land, & LPA Services; Robert Bachtold, Excess Land Sales; and Van Nguyen, Excess Lands Sales, Caltrans District 4.

Dear Sirs:

HAPA requests that Caltrans delay selling properties at 1187, 1199 and 1199 Overlook Ave. in Hayward. They are in the middle of a larger area planned for a large sustainable neighbor-hood. Sale would undermine land assembly and thus jeopardize the whole project. HAPA has promoted the concept for several years and it was supported by the City in the 238 Land Use Study, which Caltrans helped fund.

HAPA supports Caltrans realizing market value from the sale of its property, but urges you to consider a better way to get there and other equally important Caltrans values, policies, and priorities.

The Overlook properties are not zoned for single family and their blight does not affect a surrounding neighborhood. We urge Caltrans, as a higher priority, to expedite sales on Highland Blvd., where many more derelict properties are having an adverse effect on the neighborhood and the area is zoned for single family.

Bayview Village, with over 1,000 homes, would achieve affordability, alternative mobility, energy self-sufficiency, health and security, quality design, and community. The City has supported Bayview with a General Plan designation and a zoning for Sustainable Mixed Use. More detail is at www.bayviewvillage.us.

The prospects for Bayview Village have been slow to develop but are increasingly bright. Dave Jacobson, a Real Estate Investment Consultant, and Jim Toby, a Civil Engineer, both with extensive development experience, have advised HAPA in developing a very detailed proposal. More recently, Charles Long, an experienced developer long with the Urban Land Institute, has started helping, and he has brought in Mila Zelkha, a designer and successful rehabber of houses in Oakland, who won an award from Build It Green. They bring in needed competencies and connections to networks of investors and designers to further develop the project.

We will be meeting with the City and developing a work program for moving Bayview to financial viability and development. It is, really, no longer a question of whether Bayview can succeed, but of moving it forward.

We need time to work out a pre-development work program with performance milestones, financial and development viability, a public private partnership, determination of compensation to Caltrans, and continued tailoring the project to find investors. If needed, we would seek legislative authority.

Ref.: Caltrans Directive DD-64, Accommodating Non-Motorized Travel, 3-26-01
Caltrans Director's Policy, Context Sensitive Solutions, 11-29-01



Appeal of Appellate Court Ruling in HAPA v CSU

This decision reversed a lower court ruling in favor of a fast, free, frequent shuttle between CSUEB Hayward and Hayward BART, called Real Transit in the briefs and The Beeline Bus otherwise. It also conflicts with another appellate decision.

HAPA is challenging the Appellate ruling back to the judges who wrote it because of numerous factual errors.

We plan to ask the CA Supreme Court to review our case, along with the City of Hayward, which also has very important issues overruled by the court.

To persuade the Supreme Court to review we need letters of support from as many important civic groups as possible.

If the Supreme Court accepts review, HAPA and the City would be arguing the case and seeking support in amici briefs by civic groups.

I attached my detailed critique of the appellate court's opinion, requesting if they only had time to read one thing, look at this. Essentially, if the opinion stands, the alternatives section of CEQA become a dead letter; any agency can make completely arbitrary, false, and misleading claims and can completely ignore a mass of evidence against the agency's project. In this case, it would allow an expensive parking structure which would preempt better use of the land, undermine the Beeline Bus, cost students more than the bus, aggravate congestion and parking problems, induce air pollution and GHG, and subsidize auto dependency and fossil fuel consumption. This parking structure is only the first of five the CSU wants to build, calling it "sustainable transportation." Sarcasm intended.

Our deadline for filing the appeal to the Supreme Court is likely to be in late July.

I have a PowerPoint, spreadsheets, and additional documentation. I've been working on this about five years.



HAPA Attorney Stuart Flashman reports on our Appeal, June 25, 2012:

HAPA v. CSU/Hayward v. CSU Brief Summary of Issues

HAPA's appeal has been consolidated with that of the City of Hayward, The cases involve the EIR for California State University-East Bay's (CSU-EB) Master Plan for more than doubling its student enrollment. The EIR also covers two specific projects: a student dormitory expansion and a large new parking structure.

Both HAPA and CSU won decisively in the trial court. The court held that: 1) CSU had failed to adequately consider the public safety impacts of its expansion by assuming that Hayward would increase its fire protection to cover the expansion even though CSU promised no additional funding for the increase. (CSU depends entirely on Hayward for fire protection.) 2) CSU failed to adequately consider HAPA's "real transit," an alternative plan for a fast, frequent, free shuttle between the campus and Hayward BART; 3) the EIR was inadequate in failing to mitigate off-campus traffic impacts beyond hoping the legislature would provide funding; and 4), because traffic impacts had improperly been found to be significant and unavoidable, air quality impacts had improperly been assumed to be significant and unavoidable

The court of appeal reversed the trial court on all four major points. (The appellate court did uphold the trial court on one issue, that the EIR didn't adequately address the expansion's potential impacts on neighboring Garin Regional Park.)

On public safety, it held that language inserted in the state constitution by a ballot measure stating that public safety was a city's highest priority created a mandatory duty to provide adequate public safety regardless of budget constraints, and thus public safety impacts somehow could not be an issue. It held that CSU's duty to mitigate off-campus impacts was limited to asking the legislature for funding and hoping for the best.

On HAPA's transit plan, the opinion accepted CSU's argument that its as-yet-unformulated traffic demand management (TDM) plan was equivalent to HAPA's real transit plan, even though the evidence in the record was to the contrary. The opinion accepted CSU's consultant's unsupported assumption that the TDM plan couldn't eliminate traffic impacts and thus there had to be new parking structures. Essentially, this ruling would set a precedent that regardless of the available evidence, all it takes is a consultant's opinion, with no evidence, to make any alternative or mitigation measure infeasible and allow it to be dismissed in an EIR. This would wipe out CEQA's requirement that the EIR consider and analyze feasible alternatives and mitigation measures. **CEQA's requirements would be reduced to a meaningless hollow shell.**

We have petitioned the court of appeal for rehearing, but expect it to be rejected. The next step will be petitioning the state supreme court for review. We would like the civic groups to send letters supporting Supreme Court review and, if review is granted, to submit an amicus brief by a pro bono attorney. The costs would be minimal and there would be no liability.

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