CITY OF
HAYWARD
HEART OF THE BAY

7

**DATE:** June 30, 2009

**TO:** Mayor and City Council

**FROM:** Development Services Director

**SUBJECT:** General Plan Amendment Application No. PL-2009-0276 and Zone Change Application No. PL-2009-0277 – Route 238 Bypass Land Use Study – City of Hayward / Caltrans (Applicant/Owner) - Request to:

a) Amend the General Plan Land Use designation of various properties;
b) Amend the General Plan text to add a new General Plan designation called Sustainable Mixed Use;
c) Change the Zoning District designation of various properties;
d) Amend the Zoning Ordinance text to add a new zoning district called Sustainable Mixed Use and add a new Special Design Overlay District ( SD-7) entitled Hayward Foothills Trail; and
e) Approve the Route 238 Bypass Land Use Study.

The Project area comprises a large number of vacant and developed State-owned parcels totaling approximately 355 acres, extending from the east side of Foothill Boulevard just south of I-580 freeway in the north to Industrial Boulevard in the south.

## RECOMMENDATION

Staff recommends that the City Council adopts the attached resolution certifying the attached Final Environmental Impact Report (FEIR) and associated Mitigation Monitoring and Reporting Program and approving the General Plan Amendments and Route 238 Bypass Land Use Study, and introduces the attached ordinances related to Zone Changes and Zoning Text Amendments.

## SUMMARY

The purpose of the Route 238 Bypass Land Use Study is to determine the most appropriate land use designations for State-owned properties that were originally purchased to construct a freeway in the Hayward foothills. The freeway is no longer being pursued, which provides the City a unique opportunity to conduct the land use study. Since June 2007, staff and the project consultants have undertaken a series of tasks to determine the most appropriate land use designations for the study area properties. The tasks include preparation of an existing conditions report, a fiscal analysis, an infrastructure analysis, a traffic analysis, development of land use alternatives, preparation of an Environmental Impact Report, and convening ongoing community meetings. The culmination of these efforts has resulted in staff-recommended General Plan Land Use and Zoning designations.

This staff-recommended alternative is a hybrid of designations shown in the three land use alternatives developed and analyzed in the Draft Environmental Impact Report (DEIR), which were presented to Council in a work session on April 21, 2009.

In summary, the staff-recommended alternative proposes new open space, trail, and park designations in areas where they do not exist. The staff-recommended alternative minimizes density in the hillside areas and increases densities near the South Hayward BART station. Lastly, the staff-recommended alternative proposes a continuous trail through the properties that can provide a north-south connection through Hayward as well as connections to existing parks and trails in the area. Staff is recommending the creation of a Special Design Overlay District, SD-7, which would be applied to all properties within the study area. The purpose of the Overlay District is to help facilitate the ultimate development of a continuous trail throughout the study area properties in the foothills of the City.

The staff-recommended General Plan Land Use alternative allows for the potential development of approximately 223,624 square feet of non-residential building square footage and a range in the number of housing units from 1,939 to 3,777. This is a reduction in potential non-residential square footage of approximately 31,000 square feet and an increase of an average of 50 residential dwelling units over what could be developed, per the existing General Plan Land Use designations. The staff recommended-land use alternative is shown to have fewer residential units on average than was shown in Alternative A, the most intensive land use alternative analyzed in the DEIR. The staff-recommended General Plan Land Use alternative also includes a new designation called Sustainable Mixed-Use for the former Carlos Bee quarry site, a designation that promotes sustainable development opportunities, which could ultimately also be applied to other areas of Hayward in the future. A summary of the range of development potential for the staff-recommended General Plan Land Use alternative compared with the existing General Plan and the three DEIR land use alternatives is included as Exhibit D.

A Final Environmental Impact Report (FEIR) has been prepared, which includes responses to comments received on the Draft EIR as well as corrections to the Draft EIR. Since the staff-recommended land use alternative allows the potential for fewer residential units and less non-residential square footage than was shown for Alternative A, there are less environmental impacts. The project, as mitigated, will not have a significant effect on the environment.

The Planning Commission heard this item on May 28, 2009 and June 11, 2009. At their meeting on May 28, the Planning Commission recommended the City Council certify the Final Environmental Impact Report (FEIR) and associated Mitigation Monitoring and Reporting Program; approve the General Plan Amendments, Zone Changes, General Plan and Zoning Text Amendments; and approve the Route 238 Bypass Land Use Study. The Planning Commission made their recommendation subject to one land use and zoning change. They requested that within Cluster 17, for the area just east of E 16th Street between Webster Street and the proposed Tennyson Road extension, the General Plan Land Use designation be modified from "Medium Density Residential" (8.7 to 17.4 units per net acre) to "Limited Medium Density Residential" (8.7 to 12.0 units per net acre) and the Zoning designation be changed from "Medium Density Residential, RM" (2,500 square foot minimum lot size) to "Medium Density Residential,RMB4" (4,000 square foot

minimum lot size). The Commissioners preferred to see lower density designations for these properties located adjacent to open space.

At the May 28 meeting, staff also discussed the possibility of creating a Special Design Overlay District, SD-7, for the continuous trail. Since this new overlay district was not included in the original zoning text amendment, it needed to be formally noticed and discussed with the Planning Commission and the discussion was placed on the June 11 agenda for the Commission's formal review. On June 11, the Planning Commission did recommend approval of the Zoning Text Amendment for the Special Design Overlay District to accommodate development of a future trail in the foothills with one modification to require the trail setback from both existing and future development.

## BACKGROUND

The Route 238 Bypass Land Use Study analyzes appropriate land use designations for the land previously obtained by Caltrans for the purposes of constructing a bypass freeway in the 1970s. In June 2008, staff prepared three General Plan Land Use alternatives: one based on market potential; one based on community input; and one based on existing policies, plans, and interests of the local public agencies. The potential environmental impacts of the three land use alternatives were analyzed in a Draft EIR (DEIR), which was released for public comment on March 3, 2009. The comment period on the DEIR ended on April 16, 2009. A Final EIR (FEIR) has been prepared and responds to those comments received on the DEIR. The FEIR was released on May 15, 2009.

Based on the potential environmental impacts, interests of the community and established policies and plans, staff prepared preliminary draft recommended General Plan Land Use designations for the properties associated with the land use study. Associated Zoning designations have also been recommended. Since the City of Hayward has no land use authority for properties located within the County unincorporated areas, such areas are shown with Alameda County General Plan land use designations. The draft staff-recommended land use designations were presented to the City Council at a work session held on April 21, 2009, to the Planning Commission at a work session held on April 23, 2009, and to the community at a public meeting held on April 29, 2009. Based on the feedback staff received at these meetings, staff prepared the final land use recommendations and accompanying zoning districts for Planning Commission consideration at the Planning Commission hearings.

Comments received from Council members, the Planning Commissioners, and the community at the meetings held in April included the following: (1) concerns over the Medium Density Residential designation in the Bunkerhill area; (2) a desire to create more open space opportunities within the Upper B Street neighborhood; (3) support for the Sustainable Mixed Use designation staff proposed for the quarry site; (4) support for the open space designations between Calhoun Street and Harder Road; and (5) support for the extension of Fourth Street between D Street and E Street.

## DISCUSSION AND STAFF ANALYSIS

The staff recommended land use and zoning designations have changed slightly from what was presented to the Council at the April work session. The changes were made based on comments received from the Council, the Planning Commission, and the community. The change in cluster 17 was a recommendation by the Planning Commission at the meeting held on May 28, 2009. Below is a table that summarizes these changes.

| Cluster | Location | General Plan Designation 4.21.09 | General Plan Designation 6.30.09 | Zoning Designation 4.21.09 | Zoning Designation 6.30.09 |
|---|---|---|---|---|---|
| 8 | Large property located between D and E Streets | MDR | LDR/PR | RM | RS/OS |
| 10 | Property along Second Street across from June Marie Court | MDR/PR | LDR/PR | RM/OS | RS/OS |
| 15 | Bunkerhill area | MDR/SDR/PR | SDR/PR | RM/RSB40/OS | RNP/OS |
| 17 | Property between Webster and Tennyson Road extension | LOS/MDR | LOS/LMDR | OS/RM | OS/RMB4 |

### Recommended Land Use Designations Summary

The staff-recommended land use designations are a mixture of designations from the prepared three Land Use Alternatives, based on City Council and Planning Commission comments received at work sessions held in April, community input, and integration with surrounding land uses. Staff made modifications to the land use recommendations based on the comments received.

Properties located within the Alameda County unincorporated areas are shown with County land use designations; specifically, those shown in the draft Eden Area and Castro Valley General Plans. County staff is still in the process of developing these plans, but as most of the County properties are outside the City's sphere of influence and not subject to City land use authority, staff recommends showing the designations the County is proposing within their respective plans. According to County staff, the anticipated adoption of the Eden Area and Castro Valley General Plans is by the end of the 2009 calendar year.

All of the study parcels have been grouped into clusters for ease of discussion. An index map displaying which properties are located in which clusters has been included as Exhibit A of this staff report. Exhibits B and C contain sets of maps showing grouped clusters with the recommended General Plan Land Use and Zoning designations, which align with the discussion in the following

paragraphs. Those maps also show existing General Plan Land Use and Zoning designations of surrounding properties, to give the reader some context for staff's recommendations.

*Clusters 1 and 2 (properties between the I-580 on- and off-ramps and Ash Street) – Due to the presence of existing freeway on- and off-ramps that will remain in this location and the location of properties within the County unincorporated area, designations have been given to the properties in these clusters that reflect the continued public use and those designations that are reflected in County plans. (Map reference B1 and C1)*

Staff from the California Department of Transportation has indicated the ramps will remain in this location and that such land will not be sold; thus, these clusters are proposed with the designation "Public" per the draft Eden Area General Plan. The exceptions are: (1) three lots located along the northern end of Georgean Street that are proposed as "Low-Medium Density Residential", per the draft Eden Area General Plan and consistent with the designation of the surrounding properties; and (2) the lot located at the southwest corner of Foothill Boulevard and Mattox Road that has been proposed "General Commercial", per the Eden Area Plan. This is consistent with the adjacent designations along Foothill Boulevard. The designations recommended for these two clusters are as they were shown in Alternative C. No City zoning designations are proposed for the County parcels as such action would be performed by the County via its land use planning process.

*Clusters 3 and 4 (properties between Ash Street and Grove Way) - Due to the presence of existing freeway on- and off-ramps that will remain in this location and the location of properties within the County unincorporated area, designations have been given to the properties in these clusters that reflect the continued public use and those designations that are reflected in County plans. In addition, the recommendations for City properties are based primarily on compatibility with existing land uses and County designations. (Map reference B2 and C2)*

These clusters propose designations of "Public" per the draft Eden Area General Plan, since some of these properties are still freeway on-ramps. For city properties in this cluster, a proposed General Plan designation of "Public/Quasi-Public" with a "Public Facilities" (PF) zoning district is recommended for the remaining portion of the freeway on-ramps to I-580 as was shown on all three Alternatives. Properties closest to the on-ramps along the east side of Oak Street are within the County Unincorporated area and are proposed for "High Density Residential" (42-84 units per acre), per the County's draft Eden Area General Plan and as shown in Alternative C. Given concerns expressed previously by Council with the density shown in the Draft Eden Area General Plan and the community's desire for additional open space, staff has relayed to County staff such concerns, and will review carefully any future development proposals for this site, especially related to visual and traffic impacts.

For properties in the City along the east and west sides of Oak Street at Apple Avenue, a "Commercial/High Density Residential" General Plan designation with a "High Density Residential" (RH) zoning district for the east side of Oak Street and a "Commercial Office" (CO) zoning district for the west side of Oak Street has been recommended, to be compatible with the designations proposed for County property and given the close proximity to freeway access. The Commercial Office designation would also allow for the possible relocation of Spectrum Services. This recommended designation was shown in Alternative A.

Further south along Oak Street, property in the City between Apple Avenue and Grove Way is shown with a "Commercial/High Density Residential" General Plan land use designation, with a "General Commercial" (CG) zoning district for the corner of Apple Avenue and Foothill and a "Commercial Office" (CO) zoning district for the properties along Oak Street, in order to be consistent with the surrounding properties designations. These recommendations were shown in Alternatives A and B.

The parcels located on the east side of Oak Street in the County between Apple Avenue and Grove Way are proposed as "Residential Low Density Multi-Family" (18-22 units per acre) and "Small Dwelling Residential" (8-17 units per acre), per the County's draft Castro Valley General Plan. These designations would be consistent with the City's General Plan Land Use policy that encourages compatible infill uses, as well as General Plan Land Use Policy #1 that seeks to promote a balance of land uses to achieve a vibrant urban development pattern that enhances the character of the City.

*Cluster 5 (properties between Grove Way and the water tank) – In order to maintain a commercial corridor along Foothill Boulevard and to be consistent with existing designations and uses, appropriate commercial designations have been assigned to those properties directly above and to the east of those that front Foothill Boulevard. Located east of those properties are an established residential neighborhood that has a strong desire for additional open space; thus, designations are recommended that address these interests. (Map reference B2 and C2)*

Regarding properties along Grove Way, to provide flexibility in regard to market conditions to allow for residential or commercial uses or some combination of the two at this location, the parcels on the south side of Grove Way within the City are proposed with a "Commercial/High Density Residential" General Plan designation with a "General Commercial" (CG) zoning district for the corner of Foothill Blvd. and Grove Way as shown on all three Alternatives; and a "Neighborhood Commercial Residential" (CN-R) zoning district for the property that abuts the County property, as was shown on Alternatives A and C.

For the portion in the unincorporated County area along Grove Way, a "Neighborhood Commercial Mixed Use" General Plan designation is proposed per the County's draft Castro Valley General Plan. Further east on Grove Way, the properties are proposed for "Small Dwelling Residential" per the draft Castro Valley General Plan.

Those parcels adjacent to existing commercial uses that abut Foothill Boulevard could be used for development with the properties in the County area off the Gary Drive stub to create a larger area for residential development, so these clusters have a "Commercial/High Density Residential" General Plan designation with a "Medium Density" (RM) zoning district. This recommendation was shown in Alternative C and represents no change from the existing designation. Also, this designation is compatible with the surrounding designations.

A small portion of land at the southwest corner of Grove Way and Gary Drive has been designated for "Small Dwelling Residential (8-17 units per acre)," per the draft Castro Valley General Plan and is consistent with surrounding land uses. Based on topography and limitations due to Fire

Department access requirements, it is not feasible for the entire property to be used for residential, so County staff has proposed a portion of the larger property taking access off the existing Gary Drive stub to be used for "Residential Medium Density Multi-Family (23-29 units per acre)" per the draft Castro Valley General Plan, while the remainder has been designated with an "Open Space – Parks" designation per the draft Castro Valley General Plan. Given the concerns expressed previously by Council with the density shown in the Draft Castro Valley General Plan, staff has relayed to County staff such concern, and will review carefully any future development proposals for this site, especially related to visual impacts. City staff does not anticipate development at such density, given the physical constraints and concerns from residents above and to the east related to views.

In addition, staff was interested in view preservation for the residential areas located just east of this area, as well as providing trail connections from this residential area to Carlos Bee Park, affording the public a future opportunity to enjoy the views from this area. This is consistent with Hayward General Plan Land Use Policies #9 and #10, which encourage hillside development to be sensitive to the natural aspects of an area, including its slopes, and encourage cooperation with adjacent cities and Alameda County to protect the permanence of open space designations.

*Clusters 6, 7 and 8 (properties in the Upper B Street Neighborhood) - The land use recommendations in these clusters are based primarily on compatibility with the existing land use patterns and the presence of San Lorenzo Creek, while still allowing opportunities for new development, including on lands adjacent to Hayward High School. (Map reference B3 and C3)*

These clusters, which primarily consist of the Upper B Street neighborhood, are recommended for a mix of "Low", "Medium", and "High Density Residential" designations, as well as a "Retail and Office Commercial" designation along A Street. There was a strong desire of the Hayward Area Recreation and Park District (HARD) staff to keep the property at Third and Crescent Streets in public use as it is currently used by the District for parking to accommodate the Little Theater and Japanese Gardens; thus, staff is proposing a General Plan designation of "Public/Quasi-Public" and a "Public Facilities" (PF) zoning district. This designation was shown on all three Alternatives. Other areas along Crescent and Ruby Streets are proposed for "Residential Medium Density Multi-Family" (23-29 units per acre), per the County's draft Castro Valley General Plan and consistent with the designation for the surrounding properties.

Staff recommends an "Open Space - Parks" designation per the draft Castro Valley General Plan for the areas surrounding San Lorenzo Creek. This has been expanded from the current designation to incorporate riparian vegetation and the entire tree canopy, as well as allow for a multi-use trail requested by HARD. This is also consistent with the Upper B Street Neighborhood Plan that discusses working with HARD to provide park and recreational facilities that are accessible to neighborhood residents.

Properties along Rockaway Lane off A Street are proposed for a "High Density Residential" General Plan designation with a "High Density Residential" (RH) zoning district, as shown on Alternative C and a "Commercial/High Density Residential" General Plan designation with a "Commercial Office" (CO) zoning district for the corner of Rockaway Lane and A Street, as shown on Alternative A. The "RH" district is reflective of an existing apartment building along San

Lorenzo Creek that Caltrans has recently invested in refurbishing, and the "CO" district is recommended to support the desire to create a balance of land uses that ensure retail or office development in the future. Directly across from these parcels on Rockaway Lane is a relatively new office building that would complement retail and office uses at this highly visible and easily accessed location.

The remaining areas in this cluster are proposed to have designations consistent with the surrounding land use pattern on either side of Fourth Street, as well as consistent with Upper B Street Neighborhood Plan policies that encourage transitions between the high intensity uses of downtown and the low density residential areas. Therefore, "Low Density Residential" General Plan designation with a "Single-Family Residential" (RS) zoning district is proposed on the east side of Fourth street and "Medium Density Residential" General Plan designation with a "Medium Density" (RM) zoning district on the west side of Fourth Street. These recommended designations were shown in various combinations on all three Alternatives.

One additional recommendation from staff that seemed to have support of both the Planning Commission and City Council in this area is the extension of Fourth Street between D and E Streets providing a more direct connection and reducing cut-through traffic into the neighborhood. The designation for this large property located between D Street and E Street has been modified since the meetings in April. Staff is recommending a "Low Density Residential" General Plan designation with a "Single Family Residential" (RS) zoning district east of the proposed Fourth Street extension and a "Parks and Recreation" General Plan designation with an "Open Space" zoning district west of the proposed Fourth Street extension. The low density is consistent with the designation of properties located east of Fourth Street and the park and recreation designation provides for additional open space as requested at the meetings held in April.

Also, there is a strong desire by the community to maintain the character of this neighborhood, particularly since some of the homes in this area may be historically significant. The community, as shown on Alternative B, was interested in designating one of the properties as "Preservation Park," which would be a receiver site for historical structures that would need to be relocated from other properties in the area. The concept of Preservation Park would be a location for historical structures to be relocated around a central park or courtyard area. The structures could be used for either residential of office development. This idea was again supported by a majority of community members at the April 29 community meeting.

Staff is not recommending this designation at this time. The City is in the process of updating its Historic Preservation Ordinance and establishing a Historic Preservation Program that will likely include recommendations for the creation of a Historic Preservation District, which would be more encompassing than the designation suggested through this process. Such District could certainly allow the creation of a Preservation Park at a later time. As the freeway is no longer being pursued, the immediate need for potentially historic structures to be relocated has been eliminated.

Staff consulted with the City's Historic Preservation Program consultant about the creation of a Preservation Park. According to the consultant, the movement of historic homes from their original built location to this site would create a "false history" and the home may lose its historic status by relocation into a group. If a home loses its status as a historic resource, then that means the home

may no longer qualify for incentives such as those provided under the Mills Act or California Historic Building Code nor any tax credits. The consultant indicated that through the Historic Preservation Program, policies could be established that could better guide the process of relocation as well as establish an implementation strategy such that homes could maintain their historic status and still qualify for those incentives. In summary, staff recommends that the desire to accommodate relocated historic resources be addressed through the Historic Preservation Program development process, rather than through this project/study.

School District staff expressed interest in the property adjacent to Hayward High School. They are interested in the potential purchase of this area and combining it with a portion of the high school property for a future residential development, the proceeds from which could be used to fund School District property improvements. Therefore, this property has been recommended for a General Plan designation of "High Density Residential" with a "High Density Residential" (RH) zoning district, as was shown on Alternatives A and C. Surrounding properties have the same designation and thus, would be compatible with surrounding land uses. Access to this property, as part of a future development proposal, would be evaluated at that time, and if added with land from the high school property, could provide access opportunities off either East Avenue or Second Street.

*Clusters 9 and 10 (properties on Second Street) – The basis for the land use recommendations in these clusters is compatibility with surrounding development and existing land use designations. (Map reference B4 and C4)*

The large properties at the corner of Second Street and Walpert Street offer opportunities for creative development that can take advantage of the proximity to the trails connecting to Memorial Park, therefore, the recommendation is for a General Plan "Medium Density Residential" designation with a "Medium Density Residential" (RM) zoning district, with a small portion at the corner of Second Street and Walpert Street proposed for a "High Density Residential" General Plan designation with a "High Density Residential" (RH) zoning district. These recommendations were shown on Alternative A. The remaining lots on Second Street are in the middle of an existing residential area where maintaining the same designation is most appropriate; thus, these clusters propose a General Plan "Low Density Residential" designation with a "Single-Family Residential" (RS) zoning district.

*Clusters 11 and 12 (properties along Highland Blvd. and the quarry area) - The designations within these clusters are based primarily on compatibility with surrounding and existing designations, especially for those properties along Highland Boulevard and at the base of the quarry. The quarry site recommendation is based on the ability to provide flexibility with land use and zoning designations, which would allow a sustainable mixed use development and/or a school, in order to allow market determination. In addition, staff wanted to be responsive to the suggestions of the City Council, Planning Commission, and community. (Map reference B5 and C5)*

To be consistent with the surrounding designations on Highland Boulevard and with Hayward General Plan Land Use Policy #8 regarding compatible infill development, these clusters propose a General Plan "Low Density Residential" designation with a "Single-Family Residential" (RS)

zoning district for the properties along Highland Boulevard. This recommendation was shown on all three Alternatives.

Regarding the abandoned quarry below Highland Boulevard, the School District staff has expressed interest in working with California State University East Bay to create a quality middle school preparing students for a successful college career. The District staff has indicated an interest in building a new Bret Harte Middle School at this location, and selling the existing Bret Harte School property located on E Street near Main Street. The middle schools in Hayward are all more than 50 years old and have had minimal remodeling during this time. Bret Harte Middle School is the only middle school located on the east side of Mission Boulevard. The school was also a use that was supported by a large number of attendees at the February, 2008 community meetings and is supported in the Mission-Foothill Neighborhood Plan as well. While a specific location is not identified in the Hayward Unified School District's Master plan, that Plan does indicate a preference for relocating Bret Harte Middle school from its current location. Also, some members of the community have expressed interest in constructing a sustainable, high-density, reduced automobile mixed-use residential development with some neighborhood-serving commercial uses, known as Quarry Village.

Because of these possible competing uses, and previous direction from the Council, the quarry site, located off Carlos Bee Boulevard, has been designated with a "Sustainable Mixed Use" General Plan designation with a "Sustainable Mixed Use" (SMU) zoning district to reflect the interests of both the School District staff and some members of the community, as was shown on Alternative A in the DEIR. From a professional planning land use perspective, staff has reservations about the success of implementation of a Quarry Village concept, due to the location of this site along a steep roadway grade that would discourage pedestrian and bicycle use. However, staff is recommending land use designations that allows for the further development of the Quarry Village concept. Staff has created draft General Plan language for this new land use designation and draft Zoning text for the new zoning district, which are included as Exhibits F and H. Staff's recommended language requires sustainable mixed use development, which could include a residential with commercial or office mixed use, or a LEED Silver certified school with an adjacent public park. The City's Green Building Ordinance for municipal projects requires such projects to be at least LEED Silver certified.

The areas surrounding the quarry site along Redstone Place, Tamalpais Place, Palisade Street, and Overlook Avenue are proposed as General Plan designation "Low Density Residential" with a "Single-Family Residential" (RSB6) zoning district, which requires a 6,000 square foot minimum lot size. This designation is consistent with the surrounding designations and was as shown on Alternative B.

*<u>Clusters 13 and 14 (properties between Carlos Bee Blvd. and Central Blvd.)</u> - Designations have been recommended in this area in order to maintain commercial land use designations along Mission Boulevard and to maintain residential neighborhoods. (Map reference B5 and C5)*

Hayward General Plan Land Use Policy #5 discusses promoting transit-oriented development in the Mission/Foothill corridor in order to relieve regional congestion and create an attractive commercial boulevard. Therefore, portions of these clusters adjacent to mission Boulevard are shown with

General Plan "General Commercial" designations with "General Commercial" (CG) zoning districts, as was shown on all three Alternatives. The visibility and access of these properties are conducive to supporting commercial uses.

The Mission-Foothill Neighborhood Plan discusses housing development near Mission Boulevard to provide residential development near shops and transit. The remaining areas in these clusters adjacent to Carlos Bee Boulevard are proposed for "Medium Density Residential" General Plan designations with a "Medium Density Residential" (RM) zoning district, as was shown on Alternatives A and C. A General Plan "Low Density Residential" designation with a "Single-Family Residential" (RS) zoning district is recommended for the areas along Del Mar and Belmont Streets as shown on Alternative B. The "Low Density Residential" designation is reflective of the Hayward General Plan Land Use policy that encourages infill development that is consistent with the surrounding neighborhood character. It should be noted that the presence of fault traces in this area will limit areas that could accommodate future development.

*Cluster 15 (Bunkerhill Boulevard neighborhood) - Topographical constraints and vehicular access issues are the basis for the recommended lower density designations in the Bunkerhill residential neighborhood. (Map reference B6 and C6)*

This cluster shows a General Plan designation of "Suburban Density Residential" with a "Residential Natural Preserve" (RNP) zoning district, which requires minimum lot sizes of 20,000 square feet. This designation was shown in Alternative C, with the modification from the April meetings to place the "Suburban Density Residential" land use designation on the entire neighborhood, thus eliminating the northern portion that previously was shown with Medium Density residential land use and zoning designations. It is also consistent with Hayward General Plan Land Use Policy #9, which discusses respecting the natural topography in street layouts and respecting natural contours in the siting of development. The RNP zoning district won't change the appearance or ambiance of the neighborhood, but will allow the ability to create better access to the area as well as allow for the extension of utilities such as sewer. The purpose of this zoning district is to allow for the development of an area where topographical configuration is a major consideration in determining the most appropriate physical development of the land.

This particular area has additional limitations with regard to available utilities and access. Many of the existing residential units in this area are not served by the public sewer system. Utilities will need to be extended to serve additional residential units, which could be done as part of a development proposal. The trail connections staff is recommending could more easily be achieved through the development of additional homes in this area. There is only one access to this area and creating additional public access could be difficult, due to topography and limitations for maximum roadway slope grades. However, it may be possible to create a roadway connection from the northern portion of this neighborhood to Carlos Bee Boulevard, which has a moderate slope, providing a link to the southwestern most portions of the California State University property. The Mission-Foothill Neighborhood Plan also indicates that this particular area should be preserved by avoiding massive structures and/or tight rows of housing. A "Suburban Density Residential" designation with the RNP zoning (requiring approximately 20,000 square-foot sized lots), would be consistent with such policy.

*<u>Cluster 16 (property between Harder Rd. and Calhoun St.)</u> - The steep slopes and Hayward earthquake fault trace, along with a community desire to increase open space opportunities, serve as the basis for staff's recommended land use designations in this cluster. (Map reference B7 and C7)*

Due to slope and fault zone constraints, as well as a riparian area (Zeile Creek) traversing this cluster that would make development challenging, this cluster, located above the cemetery property, has been proposed for a General Plan designation of "Open Space - Limited Open Space" with an "Open Space" (OS) zoning district, as was shown in Alternative B. Lands to the west and east of this swath of State-owned lands carry an Open Space designation. Limited access further limits development opportunities in this area, as does a lack of an adequate public water supply/system at the southern end of the cluster. The Mission-Garin Neighborhood Plan and the resulting Mission-Garin Special Design District standards indicate that residential clusters in the hill area should be placed on slopes under 25 percent to preserve the hillsides and to minimize development hazards. With the proposed "Open Space – Limited Open Space" General Plan designation and "OS" zoning district recommended, there would be opportunities for trail connections to Garin Regional Park and the designation also helps to preserve the foothills of Hayward.

*<u>Cluster 17 (property between Calhoun St. and Valle Vista Ave., east of Mission Blvd.)</u> - Land use designations in this cluster are reflective of maintaining existing residential neighborhoods, as well as providing commercial opportunities that can serve those existing residential neighborhoods. (Map reference B8 and C8)*

Staff recommends a combination of residential densities, including "Low Density Residential", "Limited Medium Density Residential", and "Medium Density Residential" for this cluster. The "Low Density Residential" General Plan designation with a "Single-Family Residential" (RS) zoning district has been placed on properties along Calhoun Street, Broadway Street, and Douglas Avenue, which is consistent with the existing designation for these properties and the surrounding properties and was shown in Alternatives A and C.

Areas outside the fault zone on the north side of the proposed future Tennyson Road extension has been recommended for a General Plan designation of "Limited Medium Density Residential" with a "Medium Density Residential" (RMB4) zoning district and on the south side of the proposed future Tennyson Road extension has been recommended for a General Plan designation of "Medium Density Residential" with a "Medium Density Residential" (RM) zoning district. This was a recommended change by the Planning Commission at its May 28 meeting as the Commissioners wanted a lower residential density adjacent to open space. Portions along Mission Boulevard have been designated with a General Plan "Retail and Office Commercial" designation with a "Neighborhood Commercial" (CN) zoning district as shown in Alternative C, which is consistent with the Mission-Garin Neighborhood Plan, to provide commercial development opportunities along Mission Boulevard, while simultaneously providing necessary retail and office uses to complement the surrounding residential uses.

*<u>Clusters 18, 19 and 20 (properties in the South Hayward BART station area)</u> - The recommended land use designations for these clusters are intended to build on work completed as part of the South Hayward BART/Mission Boulevard Concept Design Plan, while at the same time providing*

*more opportunities for open space development that is lacking in this part of the City. These clusters are located in the South Hayward BART/Mission Boulevard Concept Plan area. (Map reference B9 and C9)*

Properties on the east side of Mission Boulevard are recommended to have a "High Density Residential" General Plan land use designation and a "High Density Residential" zoning district and represents no change from the existing designations. Other areas are recommended with a General Plan "Open Space - Parks and Recreation" land use designation with an "Open Space" (OS) zoning district for parcels around the existing Valle Vista Park to allow for potential expansion of this neighborhood park, as well as a future community center. Such open space designation has been expanded by approximately 2.5 acres from that recommended in the South Hayward BART Plan, to respond to desires of Council to have additional park and recreation amenities. Such designation and the City's parcel would allow for development of a future community center and park entailing approximately six acres, which is about half the size of the new Cannery Park. In addition, with this expanded area there are opportunities for pedestrian path connections between Mission Boulevard and Dixon Street.

Staff also recommends the "Mission Boulevard Density Residential" General Plan designation with a "Mission Boulevard Residential" (MBR) zoning district, which allows for densities up to 55 units per acre, for the properties along Mission Boulevard and Dixon Street, in order to provide higher densities in proximity to the South Hayward BART station. This is consistent with Hayward General Plan Land Use Policy #2 encouraging higher-intensity developments in areas within one-half mile of transit stations, and Policy #5 promoting transit-oriented development in the Mission/Foothill Corridor. The area between Dixon Street and Industrial Parkway has been recommended for a General Plan "High Density Residential" designation with a "High Density Residential" (RH) zoning district, which is consistent with both the existing designation and the General Plan policies described previously. The majority of recommended designations within these clusters were those shown on Alternative C.

As stated previously, staff intends to propose the formation of a Community Facilities District in the South Hayward BART area and for other State lands included in this study, to help pay for public services and facilities, including police services. Staff is also proposing a continuous trail throughout the State-owned properties that can ultimately connect with existing park and open space lands. The trail is currently shown as a dashed line through the study area and represents staff's recommended location for the trail. Staff's recommended location is based both on an analysis of topographical maps and ongoing discussions with the Hayward Area Recreation and Park District, so as to coordinate trail width, location, and connections.

In order to facilitate the ultimate development of the continuous trail staff is recommending the creation of a Special Design Overlay District, SD-7 that will apply to all State-owned properties in the study area. The Overlay District will emphasize the strong desire by the City for the continuous trail as well as provide a map showing the ideal location. Zoning Text Amendment language for the creation of a new Special Design Overlay District for the Hayward Foothills Trail is attached as Exhibit I. This new district will be established as part of the City of Hayward Zoning Ordinance and will be a zoning designation applied to these properties with established standards much like primary zoning districts.

## Findings for General Plan Amendments

The project involves the modification of the General Plan designation of various properties as shown in Exhibit E. The project also involves a General Plan text amendment to add a new General Plan designation called "Sustainable Mixed Use" (see Exhibit F for text).

In order to support the changes proposed by staff to the General Plan, the City Council must make the following findings. Each finding is followed by information providing support to make the required findings.

(1) Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward.

The land use changes proposed will promote the public health, safety and general welfare of the residents of Hayward by preserving and enhancing the aesthetic quality of the City by increasing opportunities for open space and park areas and for allowing an appropriate mix of land use designations in an orderly manner that is consistent with surrounding designations.

(2) The proposed change is in conformance with the purposes of the General Plan and all applicable, officially adopted policies and plans.

The proposed land use changes are in conformance with the purposes of the General Plan as well as the neighborhood plans and policies in that the revised designations will retain and enhance established neighborhoods, allow for the infill and reuse of areas that were previously set aside for a freeway, concentrate densities near a transit station and along major corridors, maintain and enhance environmental resources by creating a continuous trail, and establish Hayward as a unique and distinctive place with the inclusion of the new General Plan designation Sustainable Mixed Use.

(3) Streets and public facilities existing or proposed are adequate to serve all uses permitted when property is reclassified.

A Program-level Environmental Impact Report (EIR) was prepared that analyzed the physical environmental impacts of implementing the land use designations of three alternatives. It was determined that adequate facilities exist to serve the properties when they are ultimately developed. The basis of the analysis, which determined adequate facilities exist to serve future development, was a review of the most intensive land use alternative, Alternative A. The staff-recommended land use alternative is less intensive than Alternative A, thus adequate facilities do exist to serve future development. In addition, it is envisioned that future development will be required to be part of a Community Facilities District to off-set any potential impacts to city services.

(4) All uses permitted when property is reclassified will be compatible with present and potential future uses, and, further, a beneficial effect will be achieved which is not obtainable under existing regulations.

The staff recommended land use designations involve some reclassification so that properties are more compatible with surrounding land use designations and also help to further goals established in existing neighborhood plans. The creation of the new land use designation "Sustainable Mixed Use" does not currently exist and would allow for future development of the Carlos Bee quarry site in a sustainable manner in that it will allow for either a high density, car-independent mixed use development or allow for a LEED Silver certified school with a neighborhood park. This specific designation will more easily allow sustainable development to occur in this location or other locations as appropriate that would otherwise be more challenging with existing designations.

**Findings for Zone Changes**

The project involves the zoning reclassification of various properties as shown in Exhibit G. The project also involves a Zoning Ordinance text amendment to add a new Zoning District called "Sustainable Mixed Use" and to add a new Special Design Overlay District, SD-7 called "Hayward Foothills Trail". Exhibit H is the draft language for the new Zoning District called 'Sustainable Mixed Use". Exhibit I is the draft language for the new Special Design Overlay District, SD-7, called "Hayward Foothills Trail".

In order to support the changes proposed by staff to the Zoning Ordinance, the City Council must make the following findings. Each finding is followed by information providing support to make the required findings.

(1) Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward.

The changes proposed will promote the public health, safety, and general welfare of the residents of Hayward by preserving and enhancing the aesthetic quality of the City by increasing opportunities for open space and park areas and for allowing an appropriate mix of zoning designations in an orderly manner consistent with surrounding designations. The creation of the new Special Design Overlay District to facilitate the creation of the continuous trail will also promote the public health, safety, convenience, and general welfare of the residents in that is provides additional opportunities for outdoor recreation and provides access for all members of the community to areas of Hayward with high quality viewsheds that would not otherwise be available to them.

(2) The proposed change is in conformance with the purposes of the zoning ordinance and all applicable, officially-adopted policies and plans.

The proposed zone changes are in conformance with the purposes of the zoning ordinance in that the revised designations will retain and enhance established neighborhoods, allow for the infill and reuse of areas that were previously set aside for a freeway, concentrate densities near a transit station and along major corridors, maintain and enhance environmental resources by facilitating the creation of a continuous trail with the Special Design Overlay District, and

establish Hayward as a unique and distinctive place with the inclusion of the new zoning district Sustainable Mixed Use.

(3) Streets and public facilities existing or proposed are adequate to serve all uses permitted when property is reclassified.

A Program-level Environmental Impact Report (EIR) was prepared, which analyzed the physical environmental impacts of implementing the land use designations of three alternatives. It was determined that adequate facilities exist to serve the properties when they are ultimately developed. The basis of the analysis was a review of the most intensive land use alternative, Alternative A. The staff recommended land use alternative and accompanying zoning districts are less intensive than what was shown for Alternative A, thus adequate facilities do exist to serve future development. In addition, it is envisioned that future development will be required to be part of a Community Facilities District to off-set any potential impacts to city services.

(4) All uses permitted when property is reclassified will be compatible with present and potential future uses, and, further, a beneficial effect will be achieved which is not obtainable under existing regulations.

The staff recommended zoning districts involve some reclassification so that properties are more compatible with surrounding zoning districts and also help to further goals established in existing neighborhood plans. The creation of the new zoning district "Sustainable Mixed Use" does not currently exist and would allow for the future development of the quarry site in a sustainable manner in that it will allow for either a high density, car-independent mixed use development or allow for a LEED Silver certified school with a neighborhood park. This specific designation will more easily allow sustainable development to occur in this location that would otherwise be more challenging with existing designations. The creation of the Special Design Overlay District to be applied to all study area properties will facilitate the creation of the continuous trail that will be a benefit to all residents of and visitors to the Hayward community.

## ENVIRONMENTAL REVIEW

A Draft Program-level Environmental Impact Report (DEIR) was prepared for the Route 238 Bypass Land Use Study. This document was circulated for a 45-day public review period which ended on April 16, 2009. Staff received nine comment letters and also responded to comment received at the City Council work session held on March 24 and the Planning Commission hearing held on March 26. A Final EIR was prepared which responds to those comments received and also includes any clarifications to the DEIR. The Final EIR was released on May 15, 2009 and forwarded to public agencies that commented on the DEIR.

The Draft EIR had indicated that based on the trips generated by the land uses proposed in Alternative A there would be a Significant and Unavoidable impact at the Foothill Boulevard and D Street intersection. When compared to the existing General Plan, Alternative A added approximately 501 additional dwelling units which resulted in a ten second increase in delay at this intersection. Comparatively, the staff-recommended land use alternative adds 65 dwelling units

above the existing General Plan. Using a straight line proportion, this would result in a 1.3 second increase in delay at this intersection. A four second delay at any intersection that is operating a LOS F is considered significant. Since the intersection delay would be only 1.3 seconds, the impact to the Foothill Boulevard and D Street intersection is considered less than significant.

Prior to approving the Route 238 Bypass Land Use Study and the associated amendments to the both the General Plan and Zoning Ordinance, the City shall certify that:

(1) The final EIR has been completed in compliance with the California Environmental Quality Act (CEQA);

The final EIR was completed in compliance with the CEQA guidelines. The final EIR was released on May 15, the minimum 10 days prior to the Planning Commission public hearing.

(2) The final EIR was presented to the decision-making body and that the decision-making body reviewed and considered the information contained in the final EIR prior to approving the project;

The final EIR will be presented to both the Planning Commission and then again to the City Council in late June, which will be prior to the City Council taking action on the project.

(3) The final EIR reflects the City's independent judgment and analysis.

The final EIR does reflect the independent judgment of the City of Hayward.

The project, as mitigated, will not have a significant effect on the environment

**FISCAL IMPACT**

Preparation of the Route 238 Bypass Land Use Study was completed partially with assistance of a $250,000 Community-Based Transportation Planning Grant from Caltrans and partially with $50,000 matching funds from the City's General Fund and Redevelopment funds. The money for the study was previously appropriated by the Council prior to initiation of the study in late 2007. The land use study parcels will ultimately be sold and future owners may choose to redevelop or they may not. It is difficult to determine at this time what the fiscal impacts of future development of the study parcels will be. Fiscal impacts of future development projects will be evaluated at the time they are reviewed, if Planning Commission or City Council review of such developments occurs.

However, as properties are developed, there will be fiscal benefits to the city in the form of added property taxes for residential development and with added sales tax for non-residential development. There will also be fiscal impacts from these new developments on city services. These impacts on city services were analyzed in the Fiscal Impact Report. It was determined that the City should prepare and adopt a mechanism to finance public safety staffing and improvements,

such as a Community Facilities District (CFD), that will provide for adequate funding to meet the staffing, facility, and equipment needs for such services.

## PUBLIC OUTREACH

Notice of this public hearing was sent to interested parties, members of the Agency Executive Committee and the Technical Advisory Committee, which include members from the Hayward Area Recreation and Park District, Hayward Unified School District, Caltrans, California State University East Bay, and Alameda County Planning, and lastly members of the Hayward community. A one-half page legal ad providing notice of this Public Hearing was placed in the Daily Review on June 20, 2009. Hard copy notices of this meeting were sent to approximately 81 people who have requested such notices on this project. An electronic version of the public hearing notice was sent to an additional 142 email addresses to folks who have requested such notices on this project.

## SCHEDULE

Staff has held numerous meetings with the City Council, the Planning Commission and the community throughout the land use study process. Following is a table which includes the dates of all meetings held, the type of meeting, and the topics of those meetings.

| Meeting Date | Type of Meeting | Meeting Topic |
|---|---|---|
| 11/14/2006 | City Council | Scope of Work for the land use study |
| 6/26/2007 | City Council | Approve the consultant contract for the land use study |
| 9/20/2007 | Planning Commission | Land Use Study Update and summary of what will be presented at the first community meeting |
| 9/25/2007 | City Council | Land Use Study Update and summary of what will be presented at the first community meeting |
| 10/3/2007 | Community Meeting #1 | Land Use Study Overview |
| 2/6/2008-2/13/2008 | Community Meeting #2 | Existing Conditions report Summary and workshop to find out community's interests |
| 6/17/2008 | City Council | Summary of Land Use Alternatives |
| 6/18/2008 | Community Meeting #3 | Summary of Land Use Alternatives |
| 3/24/2009 | City Council | Draft Environmental Impact Report (DEIR) comments |
| 3/26/2009 | Planning Commission and Community | Draft Environmental Impact Report (DEIR) comments |
| 4/21/2009 | City Council | Presentation of the staff-recommended land use alternative |
| 4/23/2009 | Planning Commission | Presentation of the staff-recommended land use alternative |
| 4/29/2009 | Community Meeting #4 | Presentation of the staff-recommended land use alternative |
| 5/28/2009 | Planning Commission | Public hearing on Land Use Study |
| 6/11/2009 | Planning Commission | Public Hearing on proposed Trail |

Assuming the City Council approves the General Plan Amendments, Zone Changes, General Plan and Zoning Text Amendments and the Route 238 Bypass Land Use Study, formal adoption will

take place at the regular City Council meeting on July 7 and the new designations will be effective thirty days later on August 7, 2009.

Prepared by:

Sara Buizer, AICP
Senior Planner

Recommended by:

David Rizk, AICP
Director of Development Services Department

Approved by:

Gregory T. Jones, City Manager

| | | |
|---|---|---|
| Attachments: | Exhibit A: | Land Use Clusters |
| | Exhibit B: | Recommended Land Use Designations |
| | Exhibit C: | Recommended Zoning Designations |
| | Exhibit D: | Recommended Land Use Alternative Summary Table |
| | Exhibit E: | Summary of General Plan changes |
| | Exhibit F: | Draft General Plan designation for Sustainable Mixed Use |
| | Exhibit G: | Summary of Zoning District changes |
| | Exhibit H: | Draft Zoning District for Sustainable Mixed Use (SMU) |
| | Exhibit I: | Draft Special Design Overlay District SD-7 Hayward Foothills Trail |
| | Exhibit J: | Final Environmental Impact Report (distributed previously) |
| | Exhibit K: | Mitigation Monitoring and Reporting Program |
| | Exhibit L: | May 28, 2009, Planning Commission Agenda Report without attachments |
| | Exhibit M: | Minutes for the May 28, 2009, Planning Commission Meeting |
| | Exhibit N: | June 11, 2009, Planning Commission Agenda report without attachments |
| | Exhibit O: | Minutes from the June 11, 2009, Planning Commission Meeting |
| | | Draft Resolution |
| | | Draft Ordinances |

**DUE TO THE SIZE AND COLOR OF THE EXHIBITS, THEY MAY BE VIEWED AT THE CITY CLERK'S OFFICE OR ON THE CITY WEB PAGE**

# DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. 09-

Introduced by Council Member _____

mae
6/22/09

RESOLUTION CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT, APPROVING THE MITIGATION MONITORING AND REPORTING PROGRAM AND APPROVING THE ROUTE 238 BYPASS LAND USE STUDY, THE STAFF-RECOMMENDED LAND USE ALTERNATIVE AND RELATED GENERAL PLAN AMENDMENTS , ZONING RECLASSIFICATIONS AND ZONING TEXT AMENDMENTS

WHEREAS, in October of 2006, the City Council authorized the preparation of a land use study ("Route 238 Bypass Land Use Study") for the properties originally obtained for construction of the Route 238 Bypass or Foothill Freeway, which area is comprised of approximately 355 acres extending from the east side of Foothill Boulevard just south of the I-580 freeway in the north to Industrial Boulevard in the south (the "Project Area"); and

WHEREAS, as part of the Route 238 Bypass Land Use Study, several land use actions have been proposed related to properties in the Project Area, including amendments to the text of the General Plan and General Plan Land Use Designations (GPA No. 2009-0276), zoning reclassifications and the creation of a new Sustainable Mixed Use (SMU) zoning district and Special Design Overlay District (SD-7) for the Hayward Foothills Trail (Zone Change No. 2009-0277) (collectively the "Related Land Use Actions"); and

WHEREAS, a draft and final Program Environmental Impact Report ("Program EIR") has been prepared to assess the potential environmental impacts of the proposed land use alternatives and Related Land Use Actions (collectively the "Project") and potential mitigation measures; and

WHEREAS, the Planning Commission has considered the Program EIR and the Project at public hearings held on May 28, 2009, and June 11, 2009, and has recommended that the City Council certify the Program EIR, approve the proposed mitigation measures and Mitigation Monitoring and Reporting Program, attached hereto as Exhibit "A", approve PL-2009-0276GPA and PL-2009-0277ZC and adopt the Route 238 Bypass Land Use Study, with the changes recommended by staff (the "Staff-Recommended Land Use Alternative"); and

WHEREAS, notice of the hearing was published in the manner required by law and the hearing was duly held by the City Council on June 30, 2009.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby finds and

determines:

I. ROUTE 238 BYPASS LAND USE STUDY. The main purpose of the Route 238 Bypass Land Use Study is to determine the most appropriate land use designations for State-owned properties that were originally purchased to construct a freeway in the Hayward foothills. To achieve the goals envisioned by the Route 238 Bypass Land Use Study, the General Plan and the Zoning Ordinance must be amended.

A. General Plan Amendments. The Project proposes changes to the General Plan Land Use Map for some properties in the Project Area. In addition, the text of the General Plan will be amended to add the new land use category, Sustainable Mixed-Use, a copy of which is attached hereto as Exhibit "B" and incorporated herein by reference. The amendments to the General Plan Land Use Map are set forth in Exhibit "C"and incorporated herein by reference.

B. Findings for Approval of the General Plan Amendments. The Project reflects the City's development goals and objectives as articulated in the General Plan. The land use changes proposed will promote the public health, safety and general welfare of the residents of Hayward by preserving and enhancing the aesthetic quality of the City through increased opportunities for open space and park areas and an appropriate mix of land use designations in an orderly manner that is consistent with surrounding designations. The proposed land use changes are in conformance with the purposes of the General Plan as well as the neighborhood plans and policies in that the revised designations will retain and enhance established neighborhoods; allow for the infill and reuse of areas that were previously set aside for a freeway; concentrate densities near a transit station and along major corridors; maintain and enhance environmental resources by creating a continuous trail; and establish Hayward as a unique and distinctive place with the inclusion of the new General Plan land use designation Sustainable Mixed Use. A Program-level Environmental Impact Report (EIR) was prepared which analyzed the physical environmental impacts of implementing the land use designations of three alternatives. It was determined that adequate facilities exist to serve the properties when they are ultimately developed. The basis of the analysis, which determined adequate facilities exist to serve future development, was a review of the most intensive land use alternative, Alternative A. The Staff-Recommended Land Use Alternative is less intensive than Alternative A, thus adequate facilities do exist to serve future development. In addition, it is envisioned that future development will be required to be part of a Community Facilities District to off-set any potential impacts to police and fire services. The Staff-Recommended Land Use Alternative designations involve some reclassifications so that properties are more compatible with surrounding land use designations and also help to further goals established in existing neighborhood plans. The creation of the new land use designation "Sustainable Mixed Use" does not currently exist and would allow for future development of the Carlos Bee quarry site in a sustainable manner in that it will allow for either a high density, car-independent mixed use development or allow for a LEED Silver certified school with a neighborhood park. This specific designation will more easily allow sustainable development to occur in this location or other locations as appropriate that would otherwise be more challenging with existing designations.

C. Zoning Ordinance Text Changes. The Zoning Ordinance Text Changes establish the existence of two new zoning districts, the Sustainable Mixed Use (SMU) Zoning District and the Special Design Overlay District (SD-7), Hayward Foothills Trail, as more specifically set forth in the accompanying zoning ordinances.

D. Zoning Ordinance Reclassifications. Implementation of the Project will require the reclassification of some properties in the Project Area, as set forth more specifically in the accompanying zoning ordinance.

E. Findings for Approval of Zone Changes. The proposed zone changes conform to the General Plan, as amended, and reflect the City's development goals and objectives as articulated in the General Plan. The changes proposed will promote the public health, safety and general welfare of the residents of Hayward by preserving and enhancing the aesthetic quality of the City through increased opportunities for open space and park areas and by allowing an appropriate mix of zoning designations in an orderly manner that is consistent with surrounding designations. The proposed zone changes are in conformance with the purposes of the zoning ordinance in that the revised designations will retain and enhance established neighborhoods, allow for the infill and reuse of areas that were previously set aside for a freeway and concentrate densities near a transit station and along major corridors. A Program-level Environmental Impact Report (EIR) was prepared which analyzed the physical environmental impacts of implementing the land use designations of three alternatives. It was determined that adequate facilities exist to serve the properties when they are ultimately developed. The basis of the analysis, which determined adequate facilities exist to serve future development, was a review of the most intensive land use alternative, Alternative A. The Staff-Recommended Land Use Alternative and accompanying zoning districts are less intensive than what was shown for Alternative A, thus adequate facilities do exist to serve future development. In addition, it is envisioned that future development will be required to be part of a Community Facilities District to off-set any potential impacts to police and fire services. The Staff-Recommended Land Use Alternative zoning districts involve some reclassifications so that properties are more compatible with surrounding zoning districts and also help to further goals established in existing neighborhood plans.

F. Findings of Approval for Text Changes to the Zoning Ordinance. The proposed text amendments conform to the General Plan, as amended, and reflect the City's development goals and objectives as articulated in the General Plan. The creation of the new Special Design Overlay District to facilitate the creation of the continuous trail will also promote the public health, safety, convenience and general welfare of the residents in that it provides additional opportunities for outdoor recreation and access for all members of the community to areas of Hayward with high quality viewsheds that would not otherwise be available to them. The goal of the new Overlay District is to maintain and enhance environmental resources by facilitating the creation of a continuous trail. In addition, the inclusion of the new "Sustainable Mixed Use" zoning district will establish Hayward as a unique and distinctive place. The

creation of the new zoning district "Sustainable Mixed Use" does not currently exist and would allow for the future development of the quarry site in a sustainable manner by allowing either a high density, car-independent mixed use development or a LEED Silver certified school with a neighborhood park. This specific designation will more easily allow a sustainable development to occur in this location that would be more challenging with existing designations. The creation of the Special Design Overlay District to be applied to all study area properties will facilitate the creation of the continuous trail that will be a benefit to all residents and visitors to the Hayward community.

II. PROGRAM EIR CERTIFICATION. The City Council has reviewed the documents comprising the Draft and Final Program EIR for the Route 238 Bypass Land Use Study. The Staff-Recommended Land Use Alternative and the Related Land Use Actions and hereby finds that such Program EIR reflects the independent judgment of the City Council and its staff and is an adequate and extensive assessment of the environmental impacts of the land use alternatives. Accordingly, the City Council hereby certifies such Program EIR as having been prepared in compliance with the requirements of the California Environmental Quality Act ("CEQA"). The City Council also incorporates by this reference the findings contained in the Program EIR as to the environmental effects of the Route 238 Bypass Land Use Study, together with the additional findings contained in this Resolution.

III. CONSIDERATION OF PROJECT ALTERNATIVES. The Program EIR evaluated the potential impacts of the Project, including four alternatives and identifying an environmentally superior alternative, as follows:

No Project Alternative. This alternative assumes that the Route 238 Bypass Land Use Study and the Related Land Use Actions are not approved, leaving intact the existing General Plan designations and text, and zoning classifications and text. Under this alternative, the existing General Plan land use designations of commercial or residential would remain intact.

Alternative A. The EIR analyzed Alternative A, which is based primarily on the Fiscal and Market Analysis completed by the consultant, Strategic Economics, and examines the designations offering the highest market value based on the most feasible development pattern, according to the consultant's perspective. This alternative showed the most non-residential square footage and the highest potential number of residential units of any of the alternatives.

Alternative B. The EIR analyzed Alternative B, which is based primarily on the feedback received from the community at the February community meetings. This alternative showed the least amount of non-residential square footage and the least potential number of residential units, with the most open space acreage of any of the alternatives.

Alternative C. The EIR analyzed Alternative C, which is based primarily on desires of various public agencies, existing General Plan and Neighborhood Plan policies and maximizing land value and associated potential revenue that could be generated to support LATIP projects, according to agencies' staff. This alternative showed less non-residential

square footage and fewer potential residential units than Alternative A but more non-residential square footage and residential units than under Alternative B.

Environmentally Superior Alternative: Alternative B. Among the three alternatives analyzed in the EIR, Alternative B would be the environmentally superior because this alternative proposes less development, thus resulting in less lighting of taller buildings, and fewer automobile trips, with an associated reduction in impacts relating to noise and air quality. Alternative B would require less water to support future land uses; would generate less wastewater; would require fewer calls for service for the police and fire departments and would generate fewer school-aged children. However, Alternative B would not allow the implementation of a sustainable development, nor would the land use designations maximize the land value and associated potential revenue that could be generated to support LATIP projects.

Staff-Recommended Land Use Alternative. Staff prepared a hybrid land use alternative, the Staff-Recommended Land Use Alternative, which includes a higher range of potential residential units than analyzed in Alternative B, while still providing a significant amount of the open space acreage shown in that alternative. The Staff-Recommended Land Use Alternative envisions fewer residential units and less potential non-residential square footage than was shown in Alternative A, which was the most intensive land use alternative analyzed in the Program EIR. Alternative A identified a significant and unavoidable traffic impact at the Foothill Boulevard and D Street intersection. When compared to the existing General Plan, Alternative A added approximately 501 residential units, resulting in a 10-second increase in the delay at this intersection. The Staff-Recommended Land Use Alternative adds only 65 residential units to the existing General Plan density, which would result in a 1.3 second increase in the delay at this intersection. This delay is a less-than-significant impact, rather than a significant and unavoidable impact. Accordingly, a statement of overriding considerations need not be adopted for the Staff-Recommended Land Use Alternative. The proposed General Plan Amendment and Zone Change incorporate the land use designations, text amendments and reclassifications set forth in the Staff- Recommended Land Use Alternative.

IV. GENERAL PLAN AMENDMENT. Based on the foregoing findings, the City Council hereby determines that it is in the public interest and hereby approves and adopts the General Plan amendments set forth in PL-2007-0276GPA.

V. ZONING ORDINANCE AMENDMENTS. Based on the foregoing findings, the City Council hereby determines that it is in the public interest and hereby approves and adopts the zoning reclassifications and text amendments to the Zoning Ordinance set forth in PL-2009-0277ZC, subject to the adoption of the companion ordinances.

VI. ROUTE 238 BYPASS LAND USE STUDY. Based on the foregoing findings, the City Council hereby determines that it is in the public interest and hereby approves and adopts the Staff-Recommended Land Use Alternative and Route 238 Bypass Land Use Study, with the changes recommended in the Staff-Recommended Land Use Alternative.

VII. MITIGATION MEASURES. The City Council also finds that the proposed mitigations set forth in the EIR for the Route 238 Bypass Land Use Study and the accompanying Mitigation Monitoring and Reporting Program will reduce all of the environmental impacts of the Project to an insignificant level. The City Council accordingly approves the mitigation measures and Mitigation Monitoring and Reporting Program as conditions of approval of the Route 238 Bypass Land Use Study, and requires the development of the Project and issuance of development approvals which may be issued in the future to incorporate the mitigation measures set forth in the Mitigation Monitoring and Reporting Program.

VIII. ADMINISTRATIVE RECORD. A copy of the Program EIR, staff reports and communications to the Planning Commission and City Council are on file in the office of the City Clerk. In addition, other documents comprising the administrative record in this matter are on file in the office of the Development Services Department.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2009

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

_____
City Attorney of the City of Hayward

# DRAFT

ORDINANCE NO. ____

mre
6/17/09

ORDINANCE AMENDING ARTICLE 1 OF CHAPTER 10 OF THE HAYWARD MUNICIPAL CODE AND CREATING THE SUSTAINABLE MIXED USE ZONING DISTRICT (SMU), AND THE SPECIAL DESIGN OVERLAY DISTRICT (SD-7) FOR THE HAYWARD FOOTHILLS TRAIL

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF HAYWARD DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. This City Council incorporates by reference the findings contained in Resolution No. _____, approving the text changes requested in Zone Change Application PL-2009-0277, relating to the adoption of the Route 238 Bypass Land Use Study.

Section 2. Upon the adoption of this ordinance, Sections 10-1.750 through 10-1.795 of Article 1 of Chapter 10 of the Hayward Municipal Code, creating the Sustainable Mixed Use Zoning District (SMU), are hereby enacted to read as set forth in Exhibit "A" incorporated herein by reference.

Section 3. Upon the adoption of this ordinance, Sections 10-1.2640 of Article 1 of Chapter 10 of the Hayward Municipal Code, creating the Special Design Overlay District for the Hayward Foothills Trail (SD-7) is hereby enacted to read as set forth in Exhibit "B" incorporated herein by reference.

Section 4. Severance. Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided that the remainder of the ordinance, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

Section 5. In accordance with the provisions of Section 620 of the City Charter, this ordinance shall become effective immediately upon adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the___ day of _____, 2009, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward held the ____ day of _____, 2009, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

_____
City Attorney of the City of Hayward

# DRAFT

ORDINANCE NO. _____

mse
6/17/09

AN ORDINANCE RECLASSIFYING CERTAIN PROPERTIES LOCATED IN THE ROUTE 238 BYPASS LAND USE STUDY AREA PURSUANT TO ZONE CHANGE APPLICATION PL-2009-0277

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. Reclassification.

Zone Change Application No. PL-2009-0277 concerns reclassification of multiple properties affected by the Route 238 Bypass Land Use Study (the "Properties"), by rezoning such properties as set forth in Exhibit "A" and Exhibit "B" attached hereto and made a part hereof.

The City Council has previously adopted Resolution No._____, approving the text changes requested in Zone Change Application PL-2009-0277, as related to the adoption of the Route 238 Bypass Land Use Study. Based on such findings and determinations, the City Council hereby approves the rezoning of the Properties as set forth in Exhibit "A" and Exhibit "B".

In addition, the City Council also directs the Director of Development Services to amend the Zoning District Index Map on file with the Clerk and the Development Services Department in accordance with the reclassification approved by this Ordinance.

Section 2. Effective Date. In accordance with the provisions of section 620 of the City Charter, this ordinance shall become effective from and after the date of its adoption.

Section 3. Severance. Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided that the remainder of the ordinance, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the_____ day of _____, 2009, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward held the _____ day of _____, 2009, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

_____
City Attorney of the City of Hayward