

From: [Trish Spencer](#)
To: [Lara Weisiger](#)
Subject: Fw: Correct the Zoning of the Harbor Bay Club
Date: Monday, November 22, 2021 2:23:36 PM

From: Andrew Thomas
Sent: Tuesday, November 16, 2021 8:05 AM
To: Chris Aria
Cc: Marilyn Ezzy Ashcraft; Malia Vella; Tony Daysog; Trish Spencer; John Knox White; Eric Levitt; Yibin Shen; Lara Weisiger
Subject: RE: [EXTERNAL] Correct the Zoning of the Harbor Bay Club

Hello Mr. Aria,

You are correct, the November draft Housing Element does not list or rely on the Harbor Bay Club to provide housing for the RHNA.

However, based upon the recent public correspondence, it is pretty clear that we should all expect an application to be submitted very soon by a prospective buyer of the HB Club. I believe that development application will include a proposal to maintain a private health club for members with a swimming pool and construct housing on the balance of the site. I have not seen any applications, yet, but that is what the representatives of the HBC ownership are stating. Once that application is received by the City, we will process it for Planning Board review and action. I am sure the final decision regarding that site specific development application will ultimately end up at the City Council for final action. They may approve it or they may deny it.. I don't know what will happen. But if they approve it, we will be able to count those units in the Housing Element. If they deny it, then we will not count those units in the Housing Element. Tough decision for the City Council, but pretty simple determination for the Housing Element. We will just wait and see what happens.

Meanwhile and separately, the City staff is proposing zoning changes to the "Shopping Centers" in Alameda to allow for housing to meet the RHNA for the Housing Element. The Harbor Bay Club is not a shopping center. So we will be crafting a zoning amendment that can be applied to the Shopping Centers, but not the Harbor Bay Club. From a planning perspective, we want to craft zoning that makes sense for our five shopping centers (given their size, our desire to maintain a significant amount of retail, etc.).

The Harbor Bay Club site is a very different animal. What if any zoning amendments are needed for the Harbor Bay Club should be tailored to the specific geography and specific City Council priorities for that specific site. Those conversations will occur at the public hearings for the Harbor Bay Club application that we expect to receive in the near future.

Lastly, you are correct that the current "November Draft" of the Housing Element is not clear about

these distinctions that I am making in this email. The “December Draft” of the Housing Element will be much more clear and will be informed by tonight’s public hearing.

I hope this email is helpful to you and others who are interested in the future of the Harbor Bay Club site.

- Andrew

From: Chris Aria [mailto:chrisaria6060@gmail.com]

Sent: Tuesday, November 16, 2021 7:19 AM

To: Andrew Thomas <athomas@alamedaca.gov>

Cc: Marilyn Ezzy Ashcraft <MEzzyAshcraft@alamedaca.gov>; Malia Vella <MVella@alamedaca.gov>; Tony Daysog <TDaysog@alamedaca.gov>; Trish Spencer <tspencer@alamedaca.gov>; John Knox White <JknoxWhite@alamedaca.gov>; Eric Levitt <elevitt@alamedaca.gov>; Yibin Shen <yshen@alamedacityattorney.org>; Lara Weisiger <lweisiger@alamedaca.gov>

Subject: Re: [EXTERNAL] Correct the Zoning of the Harbor Bay Club

Hi Mr. Thomas,

Thank you for your prompt response to my earlier email.

I understand that the draft list of housing opportunity sites does not include the Harbor Bay Club at this time (and that the Harbor Bay Shopping Center is on that list). However, the current owners of the Club have made it publicly known that they are attempting to sell the property to a developer who *does* want the Harbor Bay Club to be on that list, as this developer/buyer intends to pursue plans to build housing there. That is why members of my community remain concerned.

Another reason for our concern is that the Harbor Bay Club site and the Harbor Bay Shopping Center share the same zoning, C-2. It is my understanding that the City Planning Staff is exploring the idea of amending the definition of C-2 zoning at the Shopping Center to allow for housing. It is also my understanding that C-2 zoning as it currently stands only allows for some limited residential use *above* a ground floor recreational or commercial use.

Our concern is that if the C-2 zoning at the Harbor Bay Shopping Center is amended to allow for housing to be built, this sets a precedent for future housing to be built at the Harbor Bay Club site as well (since they share the same zoning). So, even if the Harbor Bay Club is not in the current draft list of housing opportunity sites, the implication is that it will be soon. Please correct me and my fellow community members if we are wrong in this interpretation.

Of course, this concern can be put to rest if the City makes an explicit carve out when it writes up the description/definition of C-2 zoning at the Shopping Center--something that makes it clear that any and all amendments to the Shopping Center's C-2 zoning do not apply to the C-2 zoning at the Harbor Bay Club. Alternatively, the City can create an altogether new zoning for the Harbor Bay Club that clearly distinguishes it from the Shopping Center...This is essentially what we are requesting.

It seems strange to me and many members of my community that the Harbor Bay Club should share the same zoning as the Harbor Bay Shopping Center. Why was that ever allowed in the

first place? The Harbor Bay Club is a recreational health club, whereas the Shopping Center is an area for stores, shops, and restaurants. *These are two vastly different land uses and the zoning should reflect these differences.* Again, I respectfully request that the Harbor Bay Club zoning be amended to reflect its current and intended use. In my opinion, this is a zoning correction that should have been made 40 years ago.

In asking for this zoning correction, the intention is not to reduce the value of the property. The newspaper article you are referring to by Mr. Peterson was simply a "Letter to the Editor" in which he expressed his opinion. He did that in order to indicate that there are other viable alternatives for the site (one idea being a community owned center) that do not include housing. Many members of my community would be open to another private developer purchasing the land, provided that she/he does so for a recreational only purpose. Our intention is not to drive down the value and buy the property. *Rather, our intention is to rectify an inaccurate zoning that has been allowed for many years.* After the zoning is corrected to reflect the current and intended use, then the right owner will come into place (or not). I do not speculate on what will happen to the *ownership* of the land. My concern is that it be *properly zoned.*

I continue to stand by the other arguments I made in my previous email. *Despite what the current owners may say to the contrary, it is my understanding that the HBC never paid a Reclamation District Assessment and that the assessments were instead shouldered by the surrounding community members.* This was done because the HBC owners promised to the Reclamation District that the HBC site would remain a recreational facility in perpetuity. City Planning Board Member, Ron Curtis testified to this during the Planning Board meeting on September 13th, 2021. If you watch the tape of that meeting ([Planning Board on 2021-09-13 7:00 PM \(granicus.com\)](#)), Mr. Curtis states at 1:31-1:35 and again at 2:37-2:40 *that the HBC did not pay a Reclamation District Assessment.* Mr. Curtis was a former employee of the original developer of Harbor Bay Isle, Doric Development. He certainly has a lot of credibility.

The City has records of the Reclamation District Bond and Assessments on file that can either substantiate or refute this claim. If this information is untrue, please correct my understanding with the evidence you have on file.

Additionally, I stand by my other argument that the Harbor Bay Club is the result of a 44 acre land swap, in which 44 acres of recreational space were swapped for a 9 acre Harbor Bay Club. Again, the original developer was allowed to do this because he professed to keep those 9 acres as a recreational facility. Here is a resolution from a City Council meeting to substantiate this claim: [20130824153730.pdf \(wordpress.com\)](#).

If correcting the zoning of the Harbor Bay Club means that the City has to "upzone" some other part of Alameda, then so be it. Let's work together to find another area to "upzone."

You warned the City Council that "any action by the Council at this time to "down zone" or "right zone" the property in an attempt to reduce the value of the property will most likely be met with significant opposition from the property owner." Reciprocally, I must opine that any action by the Council to zone the Harbor Bay Club site for housing will most likely be met with significant opposition from members of the Alameda community. This is evidenced by the Petition with signatures of over 1,100 Alameda residents: <https://chnng.it/MvYdMwBZwt>. *Again, I emphasize that this is not an attempt to*

reduce the value of the property. It is an attempt to correct the zoning to reflect the property's intended use.

I understand that we need more housing in Alameda and on Bay Farm Island. However, the Harbor Bay Club should not be the place for such housing. I will gladly work with you, the City Council, and City Planning Staff to find and advocate for another, more suitable site for additional housing.

I respect all of the hard work you are doing. These are challenging times, and I appreciate all you do for Alameda.

Thank you,
Chris Aria

On Thu, Nov 11, 2021 at 8:13 AM Andrew Thomas <athomas@alamedaca.gov> wrote:

Dear Mr. Aria,

Thank you for your email to the Alameda City Council and planning staff. Over the course of the next 9 months, staff will be processing a wide variety of zoning amendments throughout the City of Alameda to address the City's obligation to accommodate the Regional Housing Needs Allocation (RHNA). Each rezoning will require a public hearing before the Planning Board and a public hearing before the City Council and then a second reading before the City Council. Your request for a rezoning of the HB Club can be considered during this public process.

Through this public process, the City Council will be able to decide which sites in Alameda it wishes to accommodate additional housing by specifically designating them as "Housing Opportunity Sites" in the Housing Element of the General Plan, or by specifically omitting the site from the list of "Housing Opportunity Sites". Some of those sites will require up-zoning to be able to accommodate the necessary housing. Obviously, the fewer the number of sites, the larger the number of units that will need to be accommodated on the list of "opportunity sites".

The "November Draft Housing Element" that will be discussed by the City Council on November 16th does include a draft list of housing opportunity sites (see table on page 6), and that list does not include the Harbor Bay Club at this time. (The Harbor Bay Shopping Center is on that draft list.) If the Council decides that they need more sites to accommodate the RHNA, the Council may choose to add the HBC site to the list of Opportunity Sites any time over the next 9 months. If the Council doesn't need more sites to accommodate the RHNA, the Council can keep it off the list. Over the course of the next 9 month, the Council will make those final decisions about all the sites on or off the list. The Harbor Bay Club site should be part of that discussion.

Of course, your request is that the Council "down zone" the HBC site. We can call it "down zoning" or we can call it "right zoning", but both are equally difficult and potentially costly to the Alameda Tax Payers, when it is done over the property owners objections. As you stated, the

property owner is in the process of attempting to sell their property, and as described by Mr. Peterson in his newspaper article, the intent of the downzoning is to reduce the value of the property. Staff must therefore warn the City Council that any action by the Council at this time to “down zone” or “right zone” the property in an attempt to reduce the value of the property will most likely be met with significant opposition from the property owner.

I look forward to working with you and the Harbor Bay community as we all work through these difficult decisions together over the next year.

- Andrew

From: Chris Aria [mailto:chrisaria6060@gmail.com]
Sent: Thursday, November 11, 2021 7:14 AM
To: Marilyn Ezzy Ashcraft <MEzzyAshcraft@alamedaca.gov>; Malia Vella <MVella@alamedaca.gov>; Tony Daysog <TDaysog@alamedaca.gov>; Trish Spencer <tspencer@alamedaca.gov>; John Knox White <JknoxWhite@alamedaca.gov>
Cc: Andrew Thomas <athomas@alamedaca.gov>
Subject: [EXTERNAL] Correct the Zoning of the Harbor Bay Club

Dear Alameda City Council Members and City Planning staff:

I am a longtime Alameda resident. I am writing with regard to the Housing Element of the General Plan and the zoning of the Harbor Bay Club (HBC) at 200 Packet Landing Road.

I signed the following petition along with over 1,000 other Alameda residents:
<https://chng.it/5sd4rwrHqh>

I understand that the City has a duty to satisfy its housing obligations by meeting its RHNA and I am supportive of that goal. However, the Harbor Bay Club site should be left alone. There are other more suitable sites on Bay Farm Island and in the greater Alameda for additional housing. Moreover, the zoning of the HBC should be corrected.

For the subsequent reasons, the HBC should be excluded from the Housing Element and its zoning corrected to reflect that it is a “recreation only” site: Diminishing the Harbor Bay Club in favor of housing converts a community asset into a developer entitlement. Historical documents confirmed by City staff state that Harbor Bay Isle Associates (the original developer) was allowed to build additional homes on acreage originally designated as recreational space. *The City of Alameda granted HBIA the right to swap 44 acres for a 10-acre Harbor Bay Club*

under the provision that “the purpose of the Harbor Bay Club is and shall continue to be to provide quality recreation facilities for the residents of Harbor Bay Isle residential development.” The HBC would not exist today if residents were given the open space that was planned for within each of their neighborhoods. As a result, the HBC is not a disposable entity because it replaces open space within the confines of a Planned Unit Development (PUD). Changing a completed PUD is contrary to the very concept of a PUD, which is to provide a known balance of residential, commercial and *recreational* land use. Removing or diminishing the HBC violates homeowner’s property rights to a recreational facility within the Community of Harbor Bay Isle.

The HBC never paid a Reclamation District Assessment. The Reclamation District Bond financed the dredging and filling of all of Harbor Bay Isle and was paid off via assessments to property owners within the development. Because the HBC did not pay an assessment, other properties had to pay a higher assessment to compensate. Other lands that were excluded from assessment were public, community spaces such as parks. The Harbor Bay Club never paid a Reclamation District Assessment for the very land upon which it was built—instead, the residents paid for it. It would be inequitable to allow a private developer to build housing and profit at the expense of assessments paid for by the members of the surrounding community.

It is unlikely that any additional housing built on the HBC land would be “affordable” housing. It is more likely that additional housing there would only be affordable to the wealthier class. This would go against the City of Alameda General Plan’s goal of promoting a “healthy, equitable, and inclusive city.” The Harbor Bay Club as a recreational space is “healthy, equitable, and inclusive.” Persons of all ages and backgrounds benefit from the many recreational activities that it offers.

It has been stated that if the HBC zoning is changed to something that only permits recreation, then by state law, the City needs to “up zone” some other site in Alameda to compensate for the proposed “down zoning” of HBC. **However, I believe that this rule is not applicable here—changing the HBC zoning to recreation only is not “down zoning”. Rather, it is “right zoning” or “corrective zoning” to reflect the original and promised intent for the use of that land: a recreational space for the community. This is not a “taking,” as nothing is being taken. The land still has plenty of promise and potential as a recreational site. The original owners were never entitled to build housing there.**

The original developers claimed that the HBC would be a recreational, community site in order to convince the City to allow the 44 acre land swap so that they could build additional homes. They then convinced the Reclamation District not to assess them for the same reason: that HBC would remain a recreational, community site. Now, it is time that the zoning reflects the same: that the HBC is a recreational, community site.

It is well known that the current owners of HBC are attempting to sell the property and have written letters to the City stating that they would like housing to be built on the site. The current owners have also purposely allowed the HBC to deteriorate so that they can claim that a recreational facility is no longer financially viable, and that

the site should be rezoned for housing. They have done all of this so that they can sell the land and gain a huge profit. Obviously, the land would be worth far more if a buyer was allowed to build housing upon it. It is imperative that the City recognize this ploy. Allowing housing at the HBC would be extremely inequitable, especially to those residents who paid the HBC's share of the Reclamation District Assessment.

If the City of Alameda is going to meet its RHNA and build 5,400 more additional housing units, then we need to maintain our recreational facilities and spaces to accommodate the additional residents more housing will bring.

For the sake of the City of Alameda maintaining its *credibility*, I believe it is imperative that this land be properly zoned as a recreation only site.

Thank you for your time and for your service to the City of Alameda.

Yours,
Chris Aria