

September 30, 2015

TO: Trish Spencer, Mayor
Frank Matarrese, Vice Mayor
Tony Daysog, Councilmember
Marilyn Ezzy Ashcraft, Councilmember
Jim Oddie, Councilmember

Andrew Thomas, City Planner
City of Alameda
2263 Santa Clara Avenue
Alameda, CA 94501

FROM: Harbor Bay Neighbors

RE: Rezoning of Parcel at 200 Packet Landing Road

On behalf of the 1,100+ supporters of Harbor Bay Neighbors, the undersigned request that at the special meeting of the Alameda City Council on October 7, 2015 the Council votes to:

1. Maintain the current General Plan and zoning designation for 200 Packet Landing as “commercial-recreation” and
2. Reaffirm the City of Alameda Planning Board Resolution No. 2134 (attached), specifically item #6, which states that the ongoing purpose of the commercial-recreation designation for this parcel is **“to provide quality recreation facilities for the residents of Harbor Bay Isle residential development.”**

Our request is based on the following facts:

- Harbor Bay Isle Associates (HBIA) has applied for a permit to build a new Harbor Bay Club at the Harbor Bay Business Park. HBIA has stated that they have no intention of operating Clubs at both sites, so we must conclude that they plan to remove the Club from its current site at 200 Packet Landing Road.
- HBIA has publically stated its long-term plan for the parcel is to build homes or a hotel/conference center on the site, or to sell the parcel to a developer who will do likewise. HBIA’s attempt to skirt the City’s planning process by withdrawing its application to rezone the parcel, while simultaneously planning the construction of a Club elsewhere, has resulted in a lack of transparency and clarity. This pervasive uncertainty about the future of the parcel has created deep, unwelcomed divisiveness within the planned development and the community.

We therefore request the City Council **immediately reaffirm and uphold the City’s General Plan and Zoning designation for the site.**

Our request is based on the grounds that the Council has sufficient information *now* to alert HBIA that rezoning the site does not meet the City’s stated requirements to justify a change in zoning or a change in the City’s General Plan.

In order to change the General Plan and zoning, the City Council ***must find that the change meets all four of the following criteria:***

- that the change ***maintains the integrity of the General Plan,***
- that the change is in the ***public interest,***
- that the change ***supports the general welfare of the community,***
- ***and*** that the change ***is equitable for the majority.***

We believe that the City Council should not and cannot make findings that a change in the General Plan and Zoning is in the best interests of the whole community.

Summary of Narrative for No Change to the General Plan and commercial-recreation zoning

1. THE CITY HAS CONCLUDED THAT IT IS IN THE PUBLIC INTEREST TO MAINTAIN THE GENERAL PLAN DESIGNATIONS AND THAT THE HOUSING ELEMENT IS SATISFIED.

The City of Alameda has satisfied the housing element of its General Plan and received certification from the State of California that the City is in compliance with requirements to provide adequate housing for its community. **Rezoning the Harbor Bay Club property for additional, unplanned “luxury” housing would be contrary to the City’s stated housing needs and guiding housing policy documents.**

CONCLUSION: Changing the parcel’s zoning to entitle additional housing on a high-density cul de sac would perpetuate an imbalance between commercial and residential land use in Alameda, undermine the integrity of the General Plan, and inequitably favor the interests of the developer over the general welfare and interests of the community.

2. IT IS BEST FOR THE GENERAL WELFARE TO NOT CONVERT A COMMUNITY ASSET TO DEVELOPER ENTITLEMENT.

The developer’s assertion that he is “entitled” to build more homes in the master planned Community of Harbor Bay Isle is erroneous and has no legal standing. The City does not have an obligation to “create” residential land within a *completed* Planned Development (PD). This assertion was legally resolved in the October 9, 2007 settlement between the City of Alameda and HBIA.

This is the third attempt by HBIA to convert (rezone) land for residential use and should be seen for what it is: a transparent attempt to increase the value of the land for personal gain, while *removing a 35+ year asset—the Harbor Bay Club—from the residential community it was specifically designated to serve*. Clearly this would *not be equitable* to the residents of the Harbor Bay Isle PD

Furthermore, rezoning the parcel for housing and eliminating the Club would *violate homeowner’s property rights* to a recreational facility within the residential component of Harbor Bay Isle. [Historical documents](http://wp.me/P3HId0-bU) (<http://wp.me/P3HId0-bU>) reveal that HBIA was allowed to build additional homes on 44 acres originally designated as recreation space for Harbor Bay Isle residents. The City of Alameda granted HBIA the right to swap those 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 provide quality recreation facilities for the residents of Harbor Bay Isle residential development.”**

CONCLUSION: Rezoning the Harbor Bay Club property would ignore previous legal settlements, be inequitable to the residents of Harbor Bay Isle PD, and undermine the General Plan and its protections in favor of HBIA interests.

3. IT IS EQUITABLE TO MAINTAIN AN APPROVED AND VIABLE PLANNED

DEVELOPMENT. The Community of Harbor Bay Isle was designed and approved by the City as a PD, which provides the City with all the advantages associated with a long-term land use plan and protects buyers/residents from encroachment. Rezoning a significant component within a completed PD—which requires changes to the General Plan, Zoning

Ordinance, Harbor Bay Master Plan and governance—in order to remove a needed community amenity harms the community and is not equitable because:

- **Rezoning the Club property is contrary to the concept of a PD**, which is to provide a long-term land use plan with a known balance of residential, commercial and recreational land use. Changing a PD after completion upsets this balance.
- **Rezoning the Club property sets a dangerous precedent for PDs in the City.** Violating the sanctity of an existing PD could make it more difficult to successfully negotiate the development of Alameda Point. Additionally, owners of similar properties, such as Harbor Bay Landing (the major shopping center on Bay Farm Island) may decide to raze their commercial properties because they can make more money by rezoning land and building waterfront homes. The City cannot support removing needed community services to satisfy the whims of commercial owners.
- **Rezoning the Club property is inequitable to residents who purchased homes at Harbor Bay Isle** because the very purpose of a PD is to provide security against encroachment.

CONCLUSION: We expect the City to support the equitable application of the PD that was put in place to protect against encroachments that violate a balance of residential, commercial, and recreational land use.

4. **UNIQUE RELATIONSHIP PLANNED BETWEEN THE HARBOR BAY CLUB, THE RESIDENTIAL COMMUNITY, AND THE CLUB'S NEXT DOOR NEIGHBOR.** The Harbor Bay Club was always intended to be a centerpiece of the Harbor Bay Isle residential development. Nowhere is this intention more clear than in the integral design relationship that exists between the Harbor Bay Club and its next door neighbor, Centre Court. Centre Court was built and **promoted as courtside homes** (<http://wp.me/a3Hld0-jZ>) by the very same developer who is now threatening to destroy this connection. Centre Court is the only townhome development at Harbor Bay Isle that is without its own recreational component. In fact, Centre Court has a large central common area with a prominent pathway leading directly to a private, residents-only access gate to the Harbor Bay Club. In addition, the Club's tennis courts line up with the entire southern edge of Centre Court, forming open space views for homeowners. HBIA's previous plans to construct 80 to 160 houses on the existing Club site would form a wall of buildings that block existing views, open space, and natural light enjoyed by Centre Court homeowners, and would remove a key recreational component that adds immeasurable value to these homes. ***This direct relationship with the Harbor Bay Club is a primary feature and key selling point of Centre Court.***

CONCLUSION: Rezoning the parcel to remove the recreational facility would affect property values for the 112 homes at Centre Court and, therefore, would be inequitable to the 112 homeowners who were protected by the PD when they purchased their homes.

5. **PROTECTING CURRENT ZONING AVOIDS SQUANDERING CITY AND COMMUNITY RESOURCES INTENDED TO SERVE THE PUBLIC INTEREST.** The topic of a new Club has been in the headlines since April 2013 and has become a deeply divisive issue in our community. For the City to allow the process to proceed further without stating its position on rezoning the parcel will result in more divisiveness, as well as a waste of City resources for: public hearings and community communications; proposed changes in the General Plan, Zoning Ordinance, and the Harbor Bay Isle Master Plan; potential homeowner litigation; and associated legal costs.

Furthermore, there is **no overriding consideration—economic or otherwise—for the City that justifies rezoning this parcel.** The City has critical issues regarding important developments that require their full attention and will provide a real benefit to the City and its citizens, such as development of Alameda Point and the waterfront areas, job creation, and attention to sea-level rise.

CONCLUSION: It is not in the public interest for City resources to be wasted on an ill-conceived plan that offers no public benefit.

WE WANT A NEW CLUB, TOO.

Harbor Bay Neighbors has consulted with several architects regarding a renovating-in-place process that keeps the Club operational and we found—without exception—that this is a common occurrence for an existing business and a reasonable alternative for HBIA. The parcel itself is still a viable site to operate a quality, profitable recreational facility for the community, as proven by HBIA’s \$7 million in business loans that were ostensibly obtained using the income from the (physically neglected) Club as collateral.

Harbor Bay Neighbors supports the improvement of the Harbor Bay Club on its current site. Many of us are members of the Club and have witnessed its calculated decline over the years. ***If HBIA were to propose improvements to Harbor Bay Club at its current location, Harbor Bay Neighbors would enthusiastically support the proposal,*** subject to a collaborative plan and design review process.

SUMMARY

Rezoning the parcel at 200 Packet Landing Road ***does NOT meet the four requirements necessary to justify changes to the Zoning Ordinance and the City General Plan.***

We respectfully request that at the special City Council meeting on October 7 the Council ***reaffirm the current zoning of 200 Packet Landing and uphold the original purpose of the current zoning,*** namely to provide a quality recreational facility for Harbor Bay Isle residents.

Thank you for your thoughtful consideration of our request.

Harbor Bay Neighbors Working Group:

- | | | |
|-----------------|----------------|--------------|
| Joyce August | Donna Fletcher | Jeff Johnson |
| Paul Beusterien | Diane Foster | Cathy Leong |
| Tim Coffey | Peter Hannigan | Deirdre Mena |
| Vic Cordell | Bonnie Headlee | Dave Terry |
| Peter Fletcher | Chuck Headlee | |

cc: *Planning Board Members:* John Knox White, Mike Henneberry, David Burton, Kristoffer Köster, David Mitchell, Sandy Sullivan and Lorre Zuppan.

Attachment: City of Alameda Planning Board Resolution No. 2134

CITY OF ALAMEDA PLANNING BOARD
RESOLUTION NO. 2134

A RESOLUTION OF THE PLANNING BOARD OF THE CITY OF ALAMEDA APPROVING PLANNED DEVELOPMENT AMENDMENT, PDA-90-26, TO THE EXISTING PLANNED DEVELOPMENT, PD-76-10 AT THE HARBOR BAY CLUB, 200 PACKET LANDING ROAD AND SUPERCEDING RESOLUTIONS NUMBERS 909, 972, AND 1281 RELATING TO THE EXISTING PLANNED DEVELOPMENT, PD-76-10

WHEREAS, the Planning Board of the City of Alameda has considered PDA-90-26 to allow expansion of the fitness center, child care and food/beverage facilities by approximately 10,000 square feet; and

WHEREAS, the Board has held a public hearing on this application and has examined pertinent maps, drawings, and documents; and

WHEREAS, the Board has made the following findings:

1. The design of the building addition, because it maintains the original design of the structure and does not encroach further toward adjacent uses, is compatible with the site and surrounding uses.
2. The project as conditioned will not have a negative impact on surrounding uses or the environment.
3. The project as conditioned to favor the continued transfer of memberships to Harbor Bay residents, and the limitation on the total number of members, will not significantly increase parking demand and other impacts caused by the operation of the Harbor Bay Club.
4. This resolution contains all previous conditions and provisions that remain applicable to the project.
5. The conditions, listed under Resolution Nos. 909 and 972 requiring the dedication of the shoreline park and installation of bicycle paths, have been met.
6. The purpose of the Harbor Bay Club is and shall continue to be to provide quality recreation facilities for the residents of the Harbor Bay Isle residential development.

THEREFORE BE IT RESOLVED that the Planning Board of the City of Alameda hereby grants PDA-90-26 subject to the following conditions:

1. This Resolution shall supercede Resolutions Nos. 909, 972, and 1281 relating to PD-76-10.

2. The project shall be constructed substantially in compliance with the plans labeled exhibit "A" dated March, 1991 and titled "PD Amendment Harbor Bay Fitness Center" on file in the office of the City of Alameda Planning Department.
3. Prior to the issuance of any building permits, the project shall be subject to Design Review which shall include the following:
 - a. A new landscaping plan for the entire Harbor Bay Club site, which conforms to the City of Alameda Water Conservation Guidelines to be installed prior to the issuance of a certificate of occupancy.
 - d. Plans which indicate new placement of facilities for storing and securing bikes during Club use which are being relocated as a part of this project.
 - c. Plans which indicate any changes in lighting.
4. The number of memberships shall not exceed 1,200 family memberships and 200 junior memberships.
5. The club shall continue the policy which allows Harbor Bay Isle residents to replace existing non-Harbor Bay Isle residents as members.
6. The club shall continue the policy by which facilities are provided at the Harbor Bay Isle Club at no or nominal cost to Homeowners' Associations for meetings until the proposed facilities for the Harbor Bay Isle Homeowners' Association at the Community Center site at Harbor Bay Landing are made available.
7. All publications advertising club events or the availability of the club for private events shall include information regarding public transportation to the club and shall encourage the use of alternative transportation or car-pooling.
8. Prior to the issuance of any building permits, the Club shall submit evidence to the Planning Department, that the existing landscaped easement between the Club and Center Court has been dedicated to the Center Court Homeowners' Association as required by Planning Board Resolution No. 972
9. The tennis courts shall not be operated after 11:00 p.m.

NOTICE. No judicial proceedings subject to review pursuant to California Code of Civil Procedure Section 1094.5 may be


prosecuted more than ninety (90) days following the date of this decision plus extensions authorized by California Code of Civil Procedure Section 1094.6.

The decision of the Planning Board shall be final unless appealed to the City Council, in writing and within fifteen (15) days of the decision, by Notice of Appeal stating the appellant claims that either the Board's decision is not supported by its findings or its findings are not supported by the evidence in the record.

PASSED AND ADOPTED by the Planning Board of the City of Alameda on the 8th day of April, 1991 by the following vote:

AYES: (7) Appezzato, Wolfe, Hodgkin, Persoff,
 Templeton, Tilos, Pritchard

NOES: (0)

ATTEST: 
DeWayne Guyer, Secretary
City Planning Board

DG/dd/4/16/91/3:46pm