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April 24, 2014

Mayor Marie Gilmore and Members of the Alameda City Council
City of Alameda City Hall
2263 Santa Clara Avenue
Alameda, CA 94501

Re: **Comments on the Harbor Bay Isle Project Description dated September 8, 1976**

Dear Mayor Gilmore and City Council Members:

A document entitled "HARBOR BAY ISLE PROJECT DESCRIPTION" dated September 8, 1976 has recently surfaced. A copy of it was presented to the City Council under Oral Communications in your meeting on April 15, 2014, and this document has recently received considerable attention in the community. Since questions have been raised about how this document may relate to the pending Application for the development of a new Harbor Bay Club on North Loop Road, on behalf of Harbor Bay Isle Associates, I want to share some information with you about the context and significance of this document.

The total community of Harbor Bay Isle described in the September 1976 Project Description includes the 320 acres which is now zoned for the Harbor Bay Business Park and the remaining 597 acres composed of the five residential villages with a full development of 3,200 housing units, land for public schools and parks, 60 acres of lagoons, and three commercial areas. Among the primary objectives of the development stated on page 1 are: "To provide a diversity of shopping, recreational, environmental and cultural facilities within the project" and "To maintain flexibility in the planning process in order to be responsive to Alameda community goals and to buyer desires."

This Project Description is basically a collection of proposals for development of Harbor Bay Isle made at a certain point in time nearly 38 years ago, not a commitment to provide all the

components described in the document. For example, the commercial developments proposed in this 1976 Project Description have been only partially realized as Harbor Bay Isle built out in the following years. The first commercial area listed on page 2, namely 16.5 acres at the corner of Island Drive and MeCartney Road, was planned to provide land for a theater, a 15,000 square-foot shared ecumenical church community building, and four church structures in addition to the retail shopping and office complex and a branch library, and obviously some of those proposals were never implemented. The second commercial area listed on page 2, namely 17 acres at the westernmost tip of the Harbor Bay Isle property, was planned to provide space for a marina and related commercial uses, with a qualification that: "This project will proceed only if economically feasible," and the marina proved to be infeasible because of shallow depths in the Bay, and a second shopping center was never developed in that location because of a lack of business demand. Instead, homes in Village Four and Village Five of Harbor Bay Isle occupy that area today.

Early on, the City acknowledged that the development of Harbor Bay Isle required flexibility in the planning process in order to achieve the desired diversity of uses, including public and private recreational facilities, and to adjust to changes in consumer demand over time within the entire Harbor Bay Isle community. In 1976, the Planning Department began working on updated General Plan Elements, and the Combined Land Use Plan adopted by the City Council in 1979 stated in pertinent part: "The City has not yet accepted any overall master plan to guide the development of Harbor Bay Isle. The developers have presented various proposals and modifications, but current planning for Harbor Bay Isle has been proceeding on the basis of a development for a 3,200 unit development. The development has included lagoons, five residential villages, schools, parks, and other recreational facilities, a community shopping center, other commercial uses, and light industrial uses. Adjustments within this development have been made as the project has proceeded." (At page 173).

As the total community of Harbor Bay Isle has undergone development since 1976, adjustments to the early master plans for Harbor Bay Isle have been proposed by the developers

due to changed circumstances and accepted and approved by the City. For example, the boundary between Village Five and the Business Park was revised due to changes in the aircraft-related noise environment, resulting in a different shape and size for Village Five. The location of the Harbor Bay Ferry Terminal was revised to adjust to water depths in the Bay and shoreline conditions. Commercial buildings in the Business Park that have outlived the useful life of their original uses have been redeveloped for other uses, such as former flex buildings transformed into church facilities or what was once the Federal Home Loan Bank building that is now the Oakland Raiders NFL team headquarters.

HISTORICAL CONTEXT OF THE SEPTEMBER 1976 PROJECT DESCRIPTION

The Harbor Bay Isle Project Description dated September 8, 1976 must be viewed in its historical context. Here are some pertinent facts and events that give context to this document:

Harbor Bay Isle was Vacant Land. When the Harbor Bay Isle Project Description dated September 8, 1976 was prepared and filed with the City, the property comprising Harbor Bay Isle was vacant land filled with sand and silt and with some temporary drainage ditches. There were no paved roads, and the land had not yet been subdivided into residential lots and common area parcels. There were no residents in Harbor Bay Isle until the first neighborhoods in Village One and Village Two were developed and homes were constructed and sold to new homeowners, all of which happened after 1976.

Settlement of Port of Oakland Lawsuits. When the City of Alameda Planning Board in 1974 approved a Planned Development application for two neighborhoods of single-family homes in Village One of Harbor Bay Isle, the approval action was challenged in a lawsuit filed the next month by the Port of Oakland, followed by a series of lawsuits brought against the City of Alameda and Harbor Bay Isle Associates as the developer of Harbor Bay Isle by the Port of Oakland over the Port's concerns about potential interference with the Oakland Airport's expansion plans and aircraft operations if Harbor Bay Isle were fully developed with 4,950

housing units in the five Villages as then proposed. Litigation continued for two years, and after lengthy negotiations, the parties reached a Settlement Agreement in July of 1976. The principal terms of the Settlement Agreement were incorporated into a Stipulated Judgment entered on August 17, 1976 in the Superior Court of Alameda County which ended all the existing litigation. The September 8, 1976 Harbor Bay Isle Project Description reflects the updated proposals for Harbor Bay Isle that could be developed under the terms and conditions of the settlement by the City and Harbor Bay Isle Associates of the Port of Oakland lawsuits.

Release of Portion of Acreage Reserved for Public Schools. The land now occupied by the Harbor Bay Club was part of 24 acres of land owned by Harbor Bay Isle Associates located along the eastern edge of the project and reserved for public school purposes in earlier agreements among the Alameda Unified School District, the City of Alameda and the Harbor Bay Isle Associates, and that area was designated for public school use in the Harbor Bay Isle project described in the A.D. Little EIR. The 9 acres of land became available for alternate development in mid-1976 when the Alameda Unified School District decided that it did not need that particular acreage for a future public school. Harbor Bay Isle Associates began to consider a private athletic club for that land instead of developing it with homes under its then-current R-1-PD zoning classification since such a recreational facility would support marketing plans to attract home buyers to Harbor Bay Isle. The September 8, 1976 Harbor Bay Isle Project Description reflects that "Two [school] sites totaling 17 acres are adjacent to Island Drive and north of the Street C intersection" (Page 3), but the document does not mention that the area reserved for future public schools had only recently been revised by the release of the upper portion of the area by the School District which made room for the Harbor Bay Club development.

Factors Affecting Prior Plans for Village Commons on Islands in the Lagoons. In the earlier proposals for the Harbor Bay Isle project described in the A.D. Little EIR and in the 1973 Harbor Bay Isle Community Master Plan, there were five islands approximately 3 acres in size located in the lagoons, one for each planned Village, and intended for recreational facilities.

While the idea of the Village Commons initially seemed attractive because homeowners in each Village would have access to the common area recreational facilities within their own Village, after a closer look, there were some serious problems that called into question the viability of the whole concept.

When a test portion of a lagoon was installed on the site, the project engineers discovered that the proposed islands in the lagoons with swimming pools would have significant geotechnical problems related to the filled soils and the high underground water table that rendered them infeasible, and their findings were reviewed and confirmed by the City's Engineering Department in 1975.

Also, the earlier plans envisioned that the proposed recreational facilities on the islands in the lagoons would be staffed, maintained and managed as Village Commons by a mid-tier property owners association for each Village. Such an arrangement would require Harbor Bay Isle residents to pay assessment dues to a Village property owners association to cover the expenses of these Village Commons as well as pay dues to the Homeowners Association for each neighborhood to cover the costs of management and maintenance of their own common area recreational areas and to a Master Community Association for the costs of services to the whole residential community, including maintenance of the lagoons and community common areas. With the reduction in the total number of homes to be built in Harbor Bay Isle from 4,950 to 3,200 under the Settlement Agreement with the Port of Oakland, both Harbor Bay Isle Associates and the City realized that the costs of such a program would be too much of a burden on the reduced number of future homeowners in Harbor Bay Isle.

Finally, after a hard look, serious questions were raised about whether the proposed Village Commons on the islands in the lagoons would make sense as the site for private recreational facilities. As illustrated on the Site Plan for the Village Commons in the Harbor Bay Isle Community Master Plan in the Exhibit attached to this letter, the first Village Commons would contain five tennis courts very close to the lagoon edge, only two access bridges (one

strictly pedestrian off a lagoon-edge pathway and one perhaps wide enough for deliveries), no vehicle parking area provided, a dock for El-Toro type sailboats, a large swimming pool deep enough for diving, a separate wading pool for children, a smaller Jacuzzi-type pool, and two large building structures. The text of the Community Master Plan included in the Exhibit describes the buildings and how they will be used as follows: "A 12,000 square foot clubhouse is to contain space for meetings, workshops, billiards, table tennis, music rooms and a kitchen for catered affairs. A child care room and administrative offices for the Village Association are also planned. A physical educational complex will contain exercise rooms, paddleball rooms, a sauna bath and massage room together with lockers and showers. Storage will be provided for 60 El Toro-type sailboats adjacent to the village dock area." Evidently the only way people could reach the Village Commons was on foot over one of the two bridges or by boat in the lagoon. The envisioned program for recreational facilities and activities on the islands in the lagoons for each residential Village was frankly overblown and unrealistic, and the projected costs of staffing, managing and maintaining such facilities and programs made the proposed Village Commons infeasible.

Compliance with CEQA Requirements. With settlement of litigation with the Port of Oakland just recently achieved, in the Fall of 1976 both the City and Harbor Bay Isle Associates took care to be sure that processing updated development plans for Harbor Bay Isle would comply with CEQA requirements. The Harbor Bay Isle Project Description dated September 8, 1976 has a section captioned COMPARATIVE ANALYSIS AND IMPACTS which is a summary of the differences between the earlier Harbor Bay Isle development plan analyzed in the A.D. Little EIR and the updated proposals for development. Included are two paragraphs which have received particular attention from persons concerned about the recent proposals to build a new Harbor Bay Club on North Loop Road and to redevelop the current Harbor Bay Club site on Packet Landing Road with new homes:

> "The primary modification in recreation has been the choice to remove the organized recreation components from each of the five Village Commons and to aggregate these into one major recreation facility with clubhouse, recreation building, swimming pools,

> and 20 tennis courts. Membership in the club is optional rather than mandatory as in the previous submittal.
>
> "Membership in the recreation center is planned for Harbor Bay Isle residents only. However, outside memberships will be permitted initially with the understanding that these will be replaced as Harbor Bay Isle membership builds up and eventually takes over. Conservative estimates indicate that the proposed recreation center should be fully subscribed by Harbor Bay Isle residents. The facilities as planned will accommodate approximately 1,200 family memberships. It has become apparent that the cost to homeowners of an expensive mandatory series of recreation facilities is untenable. The Village Commons remain in slightly smaller size as unprogrammed use spaces."

Alameda City Council Resolution No. 8593 adopted the next month on October 5, 1976 considered whether the Harbor Bay Isle EIR prepared by Arthur D. Little and certified by the City Council in April 1974 was adequate under CEQA for use in processing then-pending development applications for Harbor Bay Isle. This Resolution contained a comparative analysis of the HBI Project Description in the A.D. Little EIR with the updated HBI Project Description. This comparative analysis contained three statements about a proposed Harbor Bay Isle Club: "4. Deletion of the 3 acre Village Commons Recreation Centers (ADL, 11-10), and substitution of the Harbor Bay Isle Club on a 10.3 acre site (9 acres dry land) near Bay Farm Island Bridge and San Leandro Channel. 5. Substitution of optional membership in Harbor Bay Isle Club for mandatory membership in Village Commons Recreation Centers. 6. Reduction in land for school sites from 32 acres (ADL, 11-15) to 25 acres . . . making room for the proposed Harbor Bay Isle Club Recreation Center." The findings portion of this Resolution mentioned "the relocation of a common recreational facility near the Bay Farm Island Bridge which may be open to non-residents as well as residents" as one of the principal differences between the project described in the A.D. Little EIR and the current Project Description" (Finding # 1) and that "The relocation of the recreation center and additional use of that facility are within the total impacts described in the A.D. Little Report and additional mitigation measures may be required for local problems when the planned development for the recreation area is considered for approval." (Finding # 5). By this Resolution, the City cleared the way for the group of Planned Development applications then in the pipe line (a revised Village One, a revised Village Two, and a Planned Development for the Harbor Bay Club) to be processed on their merits without having to prepare a new or

supplemental EIR under CEQA, and the City's analysis and findings are consistent with the comparative analysis of potential environmental impacts in the Harbor Bay Isle Project Description dated September 6, 1976.

RELEVANCE FOR CURRENT APPLICATION FOR A NEW HARBOR BAY CLUB

The Harbor Bay Isle Project Description dated September 8, 1976 acknowledged that the plans for Harbor Bay Isle had been evolving up to that point and were expected to continue to evolve depending on changed circumstances. For example, the earlier plans for Harbor Bay Isle were adjusted from a denser cluster-type residential unit layout to a more traditional lot-and-block type subdivision approach, "with recreation and open space amenities designs which are considered more appropriate to this type of housing." (At page 2). Acquisition of the Falaschi property at the corner of Mecartney Road and Island Drive resulted in the expansion of the shopping center/community center complex and relocation of the ecumenical/cultural center originally planned for the marina area out at the western tip of the project to another edge of the project. "This location is better related to the total community and permits earlier implementation by many years." (At page 5). "The difference in traffic generation is basically a rearrangement of trip-end destinations rather than development of significant new traffic quantities." (At page 6).

When a Planned Development for the Harbor Bay Club was approved by the Alameda Planning Board in October of 1976, there were no conditions imposed that required that the Harbor Bay Club remain in place at its planned location forever. If a new Harbor Bay Club would be built on North Loop Road next to Village Five, similar to the traffic generation impacts of the relocation of the ecumenical/cultural center from the western tip of the Harbor Bay Isle project to the Island Drive and Mecartney Road commercial and community center described in the 1976 Project Description, the result would be "basically a rearrangement of trip-end destinations." The development of a new Harbor Bay Club with updated recreational facilities and programs that would be appreciated by persons in the entire Harbor Bay Isle community

would be in keeping with the flexibility in the planning process sought for in the Harbor Bay Isle Project Description dated September 8, 1976.

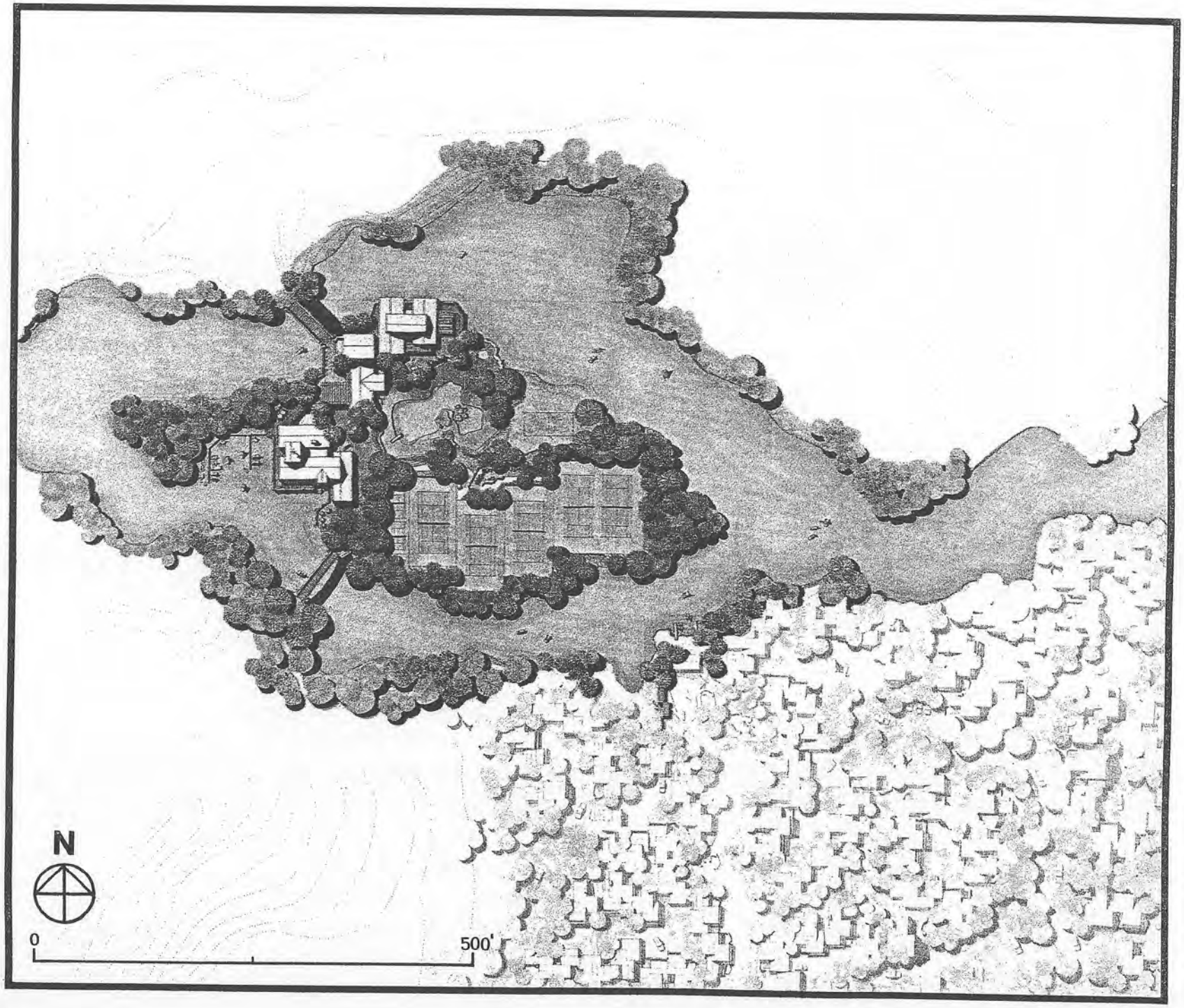
Sincerely,

Daniel F. Reidy

Attorney for Harbor Bay Isle Associates

(Exhibit attached.)

cc: John Russo, City Manager
Janet Kern, City Attorney
Farimah Faiz, Deputy City Attorney
Andrew Thomas, Planning Division, Community Development Department
C. Timothy Hoppen, President, Harbor Bay Isle Associates



Village Commons

VILLAGE COMMONS

The Village Commons, situated in an island setting, provides a unique focus for Village One. Here will be located the major recreational facilities for the Village residents.

A 12,000 square foot clubhouse is to contain space for meetings, workshops, billiards, table tennis, music rooms and a kitchen for catered affairs. A child day care room and administrative offices for the Village Association are also planned. A physical education complex will contain exercise rooms, paddleball rooms, a sauna bath and massage room together with lockers and showers. Storage will be provided for 60 El Toro-type sailboats adjacent to the village dock area.

Outdoor areas include five tennis courts, courts for paddle tennis and beach volleyball, a large swimming pool for diving and racing, a Jacuzzi pool and generous decks for sunning. A separate wading pool for children is planned in conjunction with a tot lot.

While the central portion of the island will be utilized for these facilities, its extremities will offer protective foliage sufficient to support wildlife in a water habitat away from heavy-use areas. The topography of the island will be accentuated by mounding and masses of planting in order to unify the buildings and landscape. Some structures will rise higher or extend over the water to afford better views or become visual reference points.