

## Exhibit 1

**FINDINGS OF FACT FOR DENIAL OF APPEAL**  
**PLN2014-00007**  
**Modification of Planned Development**  
**Heron Bay Residential Subdivision**  
**Heron Bay Homeowners Association c/o A. A. Berger (Appellant)**

### **Planned Development**

- 1. That the proposed location of the use is in accord with the objectives of the Zoning Code and the purposes of the district in which the site is located.**

The location of the proposed pedestrian and vehicular gates and associated fencing is located on private property and would generally meet the objective for setback and sight distance requirements. However the proposed gates and fencing would not be in accord with the purpose of the residential district to provide residential development that are consistent with the General Plan (Zoning Code Section 2-500 A.). Per General Plan Policy 2.10, it discourages the development of “gated” communities or the gating of already developed subdivisions, unless overriding public safety considerations exist. The number of public safety incidents at the already developed neighborhood is not an unusually large volume that warrants the proposed gates and fences.

The approved Planned Development (PD-91-3) provides the underlying development standards for the Heron Bay neighborhood. The previous approval was intended not to isolate the neighborhood from the immediate community. The proposed gates and fencing would be contrary to the approved PD. To gate a single-family residential neighborhood is not supported by policy in San Leandro. The proposal would establish an undesirable precedent in the City’s efforts to planning residential neighborhoods, and specifically single-family neighborhoods in the City which are typically not gated.

- 2. That the proposed location of the use and the proposed conditions under which it would be operated or maintained, will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing or working in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City.**

General Plan Policy 2.10 Gated Communities states that unless overriding public safety considerations exist, discourage the development of “gated” communities or the gating of already developed neighborhoods or subdivisions. Installation of the requested gates and fencing will result in the establishment of a gated community which is inconsistent with General Plan Policy 2.10 unless it is determined that overriding public safety considerations exist. As stated above, the number of public safety incidents at Heron Bay, an already developed neighborhood is not considered a large volume that warrants the proposed gates and fences.

The gates and fencing would be detrimental to the convenience of public access to the San Francisco Bay Trail and the City's Shoreline Recreation Area. Tract Map 6810 specifies a Public Access Easement (PAE) on Bayfront Drive from the Lewelling Boulevard circle to the western terminus of Bayfront Drive. This is to permit access to the Bay Trail west of the Heron Bay development. The intent of the PAE was to provide vehicle and pedestrian access on Bayfront to the Bay Trail. As stated in the City Engineer's Report and Conditions of Approval for Vesting Tentative Map Tract 6665 (an earlier Map to Tract 6810), it requires a public access easement shall be provided over Bayfront Drive to allow for public pedestrian and vehicular ingress, egress and parking for access to the Shoreline Trail and the Interpretive Center.

General Plan Policy 14.01 states that the City is to develop and maintain a Citywide bikeway system and General Plan Action 14.01-A, provides that the City is to maintain and implement a Citywide Bicycle Plan and update that Plan regularly. In September 2010, the City updated its Bicycle and Pedestrian Master Plan. The Regional and Adjacent Communities Bikeways Map, Figure 9 of the Master Plan, and Appendix B of the Plan, identifies Bayfront Drive as a proposed Class III Bicycle Route, which is defined as bike routes that are located on the roadway shared with motor vehicles. In its current condition, Bayfront Drive serves as a Class III bike route minus the signs or ground markings. The proposed gate and fence system would be in conflict and violate the Class III designation of the Master Plan.

General Plan Policy 21.02 states that regular, systematic, maintenance of San Leandro's parks and recreational facilities to prevent deterioration, ensure public safety, and permit continued public use and enjoyment. General Plan Chapter 5 addresses Open Space, Parks and Conservation. The marshland adjacent to the west of the Heron Bay neighborhood is identified as a Conservation Area with the Bay Trail traversing through it (Figure 5-1). It also identifies the San Francisco Bay as the most important water resource in the region. It provides habitat for marine and terrestrial life, and offers great scenic and recreational value. As proposed, the gates and fences will appear to be barrier to potential pedestrians and bicyclists with the intention to access the Conservation Area and the San Francisco Bay.

**3. That the proposed use will comply with the provisions of this code; including any specific condition required for the proposed use, in the district, in which it would be located.**

The Zoning Code provides that a Planned Development is a special zoning entitlement that is granted after individual review of the specific application which includes site planning, use of the property, architecture, landscaping, etc. The applicant and property owner propose to modify the approved Planned Development to allow for installation of vehicular and pedestrian access gates at the entry to Heron Bay which would result in the creation of a gated residential neighborhood. The request to modify the property development regulation shall be treated as a new application for the Planned Development approval. The previous approval was intended not to isolate the neighborhood from the immediate community. The proposed gates and fencing would be

contrary to the approved PD. To gate a single-family residential neighborhood is not supported by policies in San Leandro. The proposal would establish an undesirable precedent in the City's efforts to planning residential neighborhoods, and specifically single-family neighborhoods in the City which are typically not gated. In addition, although the proposed pedestrian gate would remain unlocked at all times for bicyclists and pedestrians, the design and placement of the gates and fencing spanning across Bayfront Drive would appear as an impediment to free access to the City's Conservation Area that the Bay Trail traverses and the San Francisco Bay. Moreover, the proposed gate spanning Bayfront Drive would obstruct what is identified as a proposed Class III bike path, which already serves as a Class III bicycle lane, minus the posted signs or ground markings.

**4. That the proposed use will not create adverse impacts on traffic or create demands exceeding the capacity of public services and facilities, which cannot be mitigated.**

The proposed vehicle gates and fences on Bayfront Drive will be for residents only. Ingress for visitors in vehicles will only be permitted at the Anchorage Drive vehicle gates. Visitor traffic including guests, delivery services, regular maintenance workers and utility workers, may create traffic impacts on Anchorage Drive and the east-west streets that it feeds, such as Charter Way, Mariner Way, Oceanside Way, etc. All of the visitor traffic to the 178 motor court units and the residences on the west side of the neighborhood would be required to travel on Anchorage Drive and one of the east-west streets, to their northern or western destination in the neighborhood. The current open design allows ingress from Bayfront Drive and Anchorage Drive and does not concentrate ingress vehicle traffic to Anchorage Drive and the east-west streets. In addition, the proposed design requires bicyclists and pedestrians to use the narrow sidewalk to access the pedestrian gate. This results in hazardous situations for both pedestrians and bicyclists to share the narrow sidewalk in order to get through the pedestrian gate.

**5. The Planned Development Project Plan will provide superior urban design in comparison with the development under the base district zoning regulations.**

The proposed planned development modification, to construct gates and fences to the entry of the Heron Bay neighborhood, would not provide superior urban design in comparison with development under the Residential base district. The approved Planned Development, PD-91-3, was approved as an open and non-gated neighborhood. The approval was intended not to isolate the neighborhood from the immediate community. The proposed gates and fencing would be contrary to approved PD and gate a single-family residential neighborhood which is not typical in the City. The proposal would establish an undesirable precedent in the City's efforts to plan residential neighborhoods, and specifically single-family neighborhoods in the City which are typically not gated.

Although the gates and fences are designed with an attempt to make them attractive with the tubular metal design which allows light and visibility through it, the proposal detracts and diminishes the look of the Heron Bay entrance which is currently unobstructed at Bayfront Drive, Anchorage Drive and the open space at the northern edge of the

Lewelling Boulevard circle. The proposed gates and fencing appears as barriers to potential pedestrians and bicyclists with the intention to access the City's Open Space with the Bay Trail traversing it and the San Francisco Bay, all public resources.

**6. The Planned Development Project includes adequate provisions for utilities, services, and emergency vehicle access; and that public service demands will not exceed the capacity of the existing and planned systems.**

The proposed project has been designed to generally meet emergency vehicle access requirements. The City and Alameda County Fire Department has found the access to the site and internal circulation to be adequate for vehicular, pedestrian and emergency vehicle access. However, emergency vehicle access response time could be increased in the event the gates cause the queuing or back up of vehicles outside of them. A visitor mistakenly approaching the Bayfront Drive vehicle gate, for residents only, can cause a backup of vehicles until it completes a three point turn around or a U-turn and allows traffic to flow again. At the same, visitors in vehicles could be stacked at the Anchorage Drive gate, with the requirement to stop and use the telephone system. Tire spikes on the egress side of the street would restrict emergency vehicle access to the ingress side of the street. Delayed responses are possible even though the Knox Boxes are synchronized to open all three gates.