

Memo to: Tom Liao, Secretary to the Planning Commission, City of San Leandro  
Cc: Elmer Penaranda, Senior Planner  
Re: Heron Bay HOA Application File # PLN2014-00007  
From: Jeff Tepper, on behalf of Heron Bay HOA  
Date of hearing: June 19, 2014

Exhibits to Above Memorandum



CITY OF  
**PALO  
ALTO**

# 2014 OPEN SPACE HOURS



JANUARY	1	(Wednesday)	-	JANUARY	17	(Friday)	8:00 am - 5:30 pm
JANUARY	18	(Saturday)	-	FEBRUARY	14	(Friday)	8:00 am - 6:00 pm
FEBRUARY	15	(Saturday)	-	MARCH	8	(Saturday)	8:00 am - 6:30 pm
MARCH	9	(Sunday)	-	APRIL	18	(Friday)	8:00 am - 8:00 pm
APRIL	19	(Saturday)	-	MAY	16	(Friday)	8:00 am - 8:30 pm
MAY	17	(Saturday)	-	AUGUST	3	(Sunday)	8:00 am - 9:00 pm
AUGUST	4	(Monday)	-	AUGUST	24	(Sunday)	8:00 am - 8:30 pm
AUGUST	25	(Monday)	-	SEPTEMBER	14	(Sunday)	8:00 am - 8:00 pm
SEPTEMBER	15	(Monday)	-	OCTOBER	5	(Sunday)	8:00 am - 7:30 pm
OCTOBER	6	(Monday)	-	NOVEMBER	1	(Saturday)	8:00 am - 7:00 pm
NOVEMBER	2	(Sunday)	-	DECEMBER	31	(Wednesday)	8:00 am - 5:30 pm

**CITY OF PALO ALTO**

**COMMUNITY SERVICES**

**OPEN SPACE DIVISION**

**Foothills: 650-329-2423 Baylands: 650-617-3156**

**[www.cityofpaloalto.org/openspace](http://www.cityofpaloalto.org/openspace)**

**[open.space@cityofpaloalto.org](mailto:open.space@cityofpaloalto.org)**

# *Shoreline Spaces*

## **PUBLIC ACCESS DESIGN GUIDELINES FOR THE SAN FRANCISCO BAY**

April 2005

**San Francisco Bay Conservation and Development Commission**

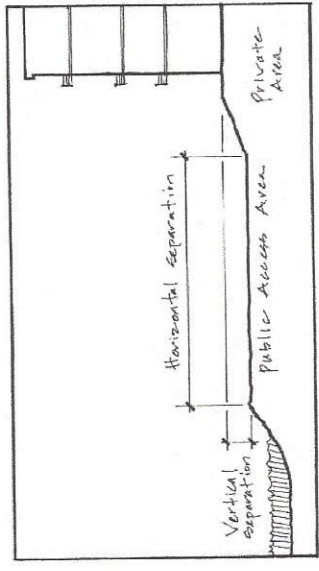
This publication was prepared with financial assistance from the National Oceanic and Atmospheric Administration's Coastal Impact Assistance Program.

### Objective No. 1 – Make Public Access PUBLIC

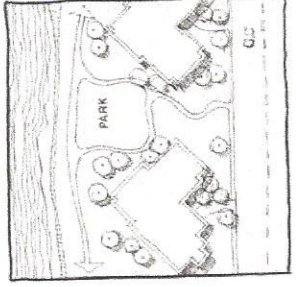
Shoreline areas are most utilized if they provide physical public access to and along the shoreline and visual public access (views) to the Bay from other public spaces. Shoreline areas should provide clear connections to public rights-of-way, be related to the adjacent uses and be designed, built and maintained in a way that indicates their public character. Public access areas must be designed in a manner that "feels public." Of course, the degree to which a space feels open and inviting is subjective. The goal, therefore, should be to design public access areas in a way that makes the shoreline enjoyable to the greatest number of people.

#### THIS OBJECTIVE MAY BE ACCOMPLISHED BY:

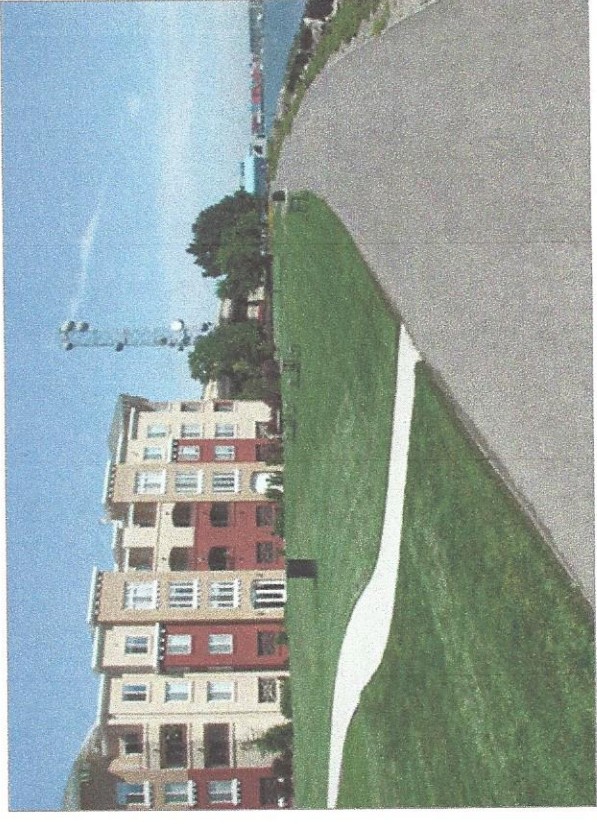
- Developing shoreline access so that the San Francisco Bay Trail or shoreline path is the primary design element.
- Designing public access so that the user is not intimidated nor is the user's appreciation diminished by large nearby building masses, structures, or incompatible uses.
- Creating delineation between public areas and private development – use fences, planting, elevation and signs where private or conflicting uses are proposed.
- Using site furnishings, such as benches, trash containers and lighting, to provide visual cues that the shoreline space is available for public use.



Horizontal and vertical separation can create a clear delineation between public access areas and the private areas of the adjacent development.



Public access should feel "public."



The trail in this photo is sufficiently wide to accommodate a variety of users. As the primary shoreline element, it is located so that neither resident nor trail user is affected by the proximity of the other. *The Landing at Jack London Square, Oakland*

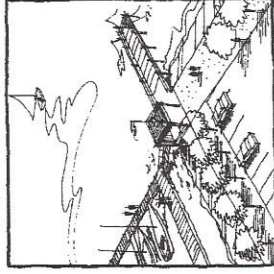
## Objective No. 2 – Make Public Access USABLE

Shoreline access areas are most enjoyed when they are designed and built to encourage diverse, Bay-related activities along the shoreline. The varied conditions of the San Francisco Bay shoreline and each site's historical, cultural and natural attributes provide opportunities for creating projects with a "sense of place" and a unique identity. View opportunities, shoreline configuration and access points are factors that determine a site's inherent public access opportunities.

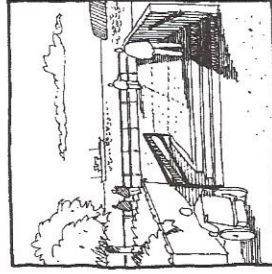
Public access improvements should be designed for a wide range of users. While some shoreline areas are best suited for quiet and contemplative public spaces, others lend themselves to be used for large public gatherings, such as festivals, outdoor markets or exhibits. In remote natural locations, simple trail systems may be all that is needed. Within every project, public access should be designed to respect all visitors' experiences of the Bay. Highly active uses should always be balanced with opportunities for passive activities, such as strolling, viewing and relaxing.

### THIS OBJECTIVE MAY BE ACCOMPLISHED BY:

- Taking advantage of existing site characteristics and opportunities, such as fishing, viewing, picnicking, swimming or boating.
- Providing opportunities to get close to the water or access the Bay by incorporating facilities such as tidal stairs, ramps or floating docks.
- Maximizing user comfort by designing for the weather and day and night use. Buildings and structures should be sited to create "suntraps" with protection from prevailing winds. Shade structures provide protection from the sun. Lighting helps extend the hours of shoreline use.
- Providing children's play opportunities that have an artistic theme or an educational function.
- Incorporating accessibility improvements into public access areas. For additional information, refer to the U.S. Access Board's Design Guidelines ([www.access-board.gov](http://www.access-board.gov)) and the California Building Code.
- Designing public access spaces that are safe and secure.
- Providing interpretation of historical, cultural or natural attributes of the site.
- Providing public parking for convenient access to the Bay.
- Provide basic public amenities, such as trails, benches, play opportunities, trash containers, drinking fountains, lighting and restrooms that are designed for different ages, interests and physical abilities.



Take advantage of site opportunities, such as fishing and boating.



Design for persons with disabilities.



Provide basic public amenities and maximize user comfort with shaded seating or protection from the wind.  
*Marina Park, San Leandro*

## VI. MANAGEMENT ISSUES

*“Public access areas and improvements along the shoreline are usually required to be maintained by and at the expense of the BCDC permittee(s).”*

As a condition of approval of most shoreline developments, BCDC permits usually contain “special conditions” that ensure that the authorized public access areas will be used properly, managed for the public’s safety and enjoyment and reasonably maintained. The following are some common BCDC requirements for managing public access areas along the shoreline of the Bay:

- **Responsibility for Public Access Areas**

Once a BCDC permit is issued, the permittee is typically responsible for ensuring that the public access area and associated improvements are installed, used and maintained in accordance with the permit. Public access areas are often required to be dedicated to a public agency or otherwise permanently guaranteed, usually through a legal instrument, for the exclusive use by the public.

- **Uses Within Public Access Areas**

Shoreline spaces that are dedicated as public access areas are typically made available exclusively to the public for unrestricted uses, such as walking, bicycling, sitting, viewing, fishing, picnicking, kayaking and windsurfing. If someone wishes to use the public access area for uses other than those specified by the BCDC permit, prior written approval by or on behalf of the Commission is usually required.

- **Reasonable Rules and Restrictions**

Reasonable rules and restrictions may be imposed on the use of the public access areas to correct particular problems that may arise, such as lack of public safety protections or increased vandalism. Rules may include restricting hours of use and delineating appropriate behavior. Such limitations, rules and restrictions typically have to be approved by BCDC upon a finding that the proposed rules would not significantly affect the public nature of the area, would not unduly interfere with reasonable public use of the public access area and would tend to correct a specific problem that has been both identified and substantiated.

- **Maintenance of Public Access Areas**

Public access areas and improvements along the shoreline are required to be maintained by and at the expense of the BCDC permittee(s). Such maintenance usually includes: repairs to all path surfaces; replacement of any landscaping that dies or becomes unkempt; repairs or replacement of any public access amenities such as seating areas, restrooms, drinking fountains, trash containers and lights; periodic cleanup of litter and other materials deposited within the access areas; removal of any hazards in or encroachments into the access areas and assuring that public access signage remains in place and is clearly visible. To reduce ongoing maintenance requirements, public access areas should be built with durable materials and using high-quality construction methods.

## San Leandro: San Lorenzo Creek to Marina Park



### Introduction

### Access

### Trail Description and Views

## Introduction

The area along the Bay north of the mouth of San Lorenzo Creek in San Leandro was once known as Roberts Landing. This was the site of Alameda County's first shipping venture. Captain William Roberts established the port in 1851 to take locally-grown hay, fruits, and vegetables across the Bay to San Francisco. Warehouses and docks were built here along the slough. Flat-bottomed two-masted scow schooners sailed in and out of the slough at high tide. Roberts Landing lasted until the 1870's. It was put out of business, like many other transportation ventures on the Bay, by the transcontinental railroad.

In 1900, this area became the site of the Trojan Powder Works, which operated here until 1963. It produced ammunition during World War I and made explosives which were used in the construction of the Panama Canal. Marshes were diked and filled for the powder factory. In later years, the rich, fertile marsh soil here was used for farming. Dikes were built to create dry land for farming. This caused the remaining marsh lands to sink, which increased their salinity and reduced their productivity. These developments altered and destroyed the original marsh environment.

Currently, new housing developments are being built here. However, the developers have cooperated with the city of San Leandro to restore 406 acres of the historic marshland between the new housing and the Bay. Fill was removed, and dikes were lowered and removed. Channels were built to provide tidal flow to the farthest reaches of the marsh. This has improved conditions for marsh vegetation and wildlife, including the endangered clapper rail and salt marsh harvest mouse. New paved trails, with interpretive kiosks and benches have been built here to provide access to San Lorenzo Creek, the marsh, sloughs, and the Bay.

The Bay Trail in San Leandro from San Lorenzo Creek to Marina Park runs through the restored marsh next to the new subdivision, follows right along the edge of the Bay, crosses a flood control channel, and ends up at Marina Park. It passes by pickleweed marshes, sloughs, mudflats, and sandy and rocky beaches. The trail is paved and wide for its entire length. It is very popular with joggers, skaters, bicyclists, and families out for a stroll. Near the Bay, a wide dirt trail runs next to the paved trail. Near Marina Park, the trail runs between the Bay and a golf course. A unmarked network of dirt and gravel trails provides access to different parts of the marsh and the Bayshore. The dirt trails are only accessible to walkers and bicyclists, so are less crowded.

All the wetland areas along the trail are connected to the Bay, so they are under tidal influence. Their appearance and conditions are greatly affected by the tides. At high tides, the sloughs and marshes fill with water, while the Bay laps

against the riprap-protected shoreline. At low tides, mudflats appear on the edges of the slough. The shoreline by the bayshore extends far out into the Bay on sandbars, rocky shoals, and mudflats.

The virtual tour below starts on the new Heron Bay Trail, heads to San Lorenzo Creek, explores the Roberts Landing marsh area on dirt trails, heads along the paved Bay Trail to the edge of Marina Park, and returns. The next segment of the Bay Trail to the north begins at Marina Park, runs around the San Leandro Marina, uses city streets for a short section, then enters Oyster Bay Regional Shoreline. North of here is Oakland International Airport.

## Access Information

The bridge across San Lorenzo Creek was destroyed by the El Nino floods of 1998. Since it was rebuilt the fall of 1999, the Bay Trail is a continuous off-road trail from the visitor's center at the [Hayward Shoreline](#), all the way to San Leandro's Marina Park.

The most direct route to the trailhead is from the end of Lewelling Blvd. Take the Hesperian off-ramp from I-880 to Lewelling westbound. Follow Lewelling across the railroad tracks. It turns into Bayfront Drive and ends at the intersection with Heron Drive. A small park and interpretive displays are at the intersection. Heed the private parking signs. The paved trail begins here and heads west towards the Bay.

The trail can be taken from the northern end at Marina Park. Take the Marina Blvd. exit from I-880 and head west. Marina turns left at Neptune Drive. Take Neptune Drive south until it ends at Marina Park. Park here. Cross the bridge over the flood control channel at the south end of the park to reach the trail heading towards San Lorenzo Creek.

## Trail Description and Views

*Click on the following pictures to see a larger version.*

(Note: the mileage readings below are from a bicycle odometer. Your mileage may vary.)



The trail begins at the small, newly-built park at the intersection of Bayfront Drive and Heron Drive. The park has lawns, trees, benches, and gardens. A small stand here has interpretive signs describing the history of the area and the marsh restoration. The paved trails between the housing development and the large slough through the marsh are part of the Heron Bay Trail. Interpretive kiosks are placed periodically along the trail and provide more information on the natural and human history of the area. Follow the paved path west.



At 0.14 miles, the trail comes to a junction. Straight ahead leads to the Bay. The trail to the left leads to San Lorenzo Creek. Take the trail to the left. This passes between the new housing development and the restored marsh. At 0.35 miles, the path passes by a fenced-off stormwater-filtering pond. Several paths along the way lead into the local neighborhood. At 0.57 miles, the trail reaches the banks of San Lorenzo Creek. The paved path follows the creek to the right. At 0.80 miles, the paved trail ends at the bridge over San Lorenzo Creek. It connects to the Bay Trail along the [Hayward Shoreline](#). If you do not want to or cannot proceed on dirt and gravel trails, turn around here and backtrack to the turnoff from the main trail, then head west towards the Bay. Otherwise, continue straight ahead.



A gravel path leads farther downstream along the creek, then turns right into the marsh. A narrow informal footpath continues along the bank of the creek, but becomes muddy before it reaches the mouth of the slough channel on the creek. Several dirt trails lead through the marsh to the north. A large slough channel cuts inland and parallels the bayshore. Take the largest dirt trail to the right. The first branch to the left will be used for a return trip. Stay to the right.



**LAW OFFICES OF  
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June 13, 2014

Ande Bennett  
San Francisco Bay Conservation and Development Commission  
455 Golden Gate Avenue, Suite 10600  
San Francisco, CA 94102

VIA FACSIMILE (415=352-3606) and Overnight Mail

Re: Heron Bay HOA: Re: Proposed Construction of Access Gates at Bayfront Drive  
And Required Shoreline Access from Lewelling Blvd, in the City of San Leandro  
(BCDC Permit No. 1992.057 and Environmental File No. ER2014.015)

Dear Ms. Bennett;

This is to inform you that I am the attorney for the Heron Bay Homeowners Association. The Board of Directors has asked me to respond to your letter of June 12, 2014. I am in receipt of earlier communications that you have had with the association regarding the above-proposed application.

I wanted to thank you for outlining in a timely fashion BCDC's current issues regarding the proposed entry gate. As you are aware, the HOA is proposing the gate because of an alarming increase in crime in the area including a recent homicide and a strong-armed robbery (June 7, 2014). This letter is designed to address your immediate concerns with the entry gate application and is not to be considered an application for a change in permit status based on the increased in crime statistics in the immediate area.

As you know the association currently has a permit application that will be heard on June 19, 2014. We fear that the City of San Leandro will use BCDC's current objections to deny our application. We hope by this letter to convince BCDC to modify their position and allow the approval of the proposed entry gate. This is a matter of great concern to the residents of Heron Bay, as they feel increasingly threatened in their own neighborhood.

Let us first state that by this correspondence, Heron Bay Homeowners Association agrees that they are the successor in interest to the permit granted to Citation Homes, the original applicant. We did want to make it perfectly clear that until the HOA received your earlier letter, that they had no idea that Citation had failed to prepare and file the legal instrument to guarantee the public access. The association accepts this responsibility and

thanks you for your reference to the proper filing materials. We will work with your office and will have this resolved and filed long before the deadline dates that you have established. However, as my client had no responsibility for this prior omission, we would suggest that this future filing should not be cause for BCDC to object to the pending gate application. We will complete the legal requirements for public access and we would point out that the Tract Map 6810, which was prepared in 1996/1997 also records the requirement for public access. The association has always recognized this obligation and has protected it on behalf of all members of the public.

This correspondence will also inform you that the Board of Directors met on June 11, 2014 and voted unanimously to amend their application to state that the pedestrian gate will remain open 24/7. It will not be locked at any time and will be available for public access at all times. As you stated in your earlier correspondence, the association will apply for an amendment to the permit if they feel at a later time that the factual situation would suggest that the gate be locked at night. However, the association has no intention to do so at this time. The fact that the gate will now remain open at all times for public access should alleviate your earlier concern.

We disagree that the placement of the gate, and the corresponding opening width of the gate, violates the language of the permit. The Tract Map, which obviously incorporated the requirements of the 1994 permit for public access, notwithstanding the fact that the legal document BCDC requires was not completed by Citation, shows the public access and the 8' wide and 12' wide spaces to which you refer to commence on the Westerly portion of the existing circle (please recall that the land comprising the circle is actually owned by the City of San Leandro). The gate allows full access to all width requirements as soon as a member of the public passes through the gate onto Heron Bay property. What public access could possibly be hampered by the presence of a 4' wide gate opening? There is no bicycle, skateboard or, hopefully, person who could not easily pass thorough a space of this size. We ask you to again recall that the permit did not call for vehicular access and nothing on the permit speaks of vehicle access. In fact the Tract map clearly states that vehicular access to the private streets, owned by Heron Bay Homeowners Association, is subject to the permission of the owner. The streets that are found on the westerly side of the proposed gate are private and do not provide public access or provide for public parking. The association will and has always towed non-resident vehicles that park in this area. Therefore, we fail to see how the BCDC can logically raise the width of the gate as a legitimate objection to the application when said gate obviously allows for full public access other than vehicular.

As stated above the installation of these gates are of great concern to the residents of Heron Bay. Based on current events they literally fear for their lives on their own property and this is truly a sad state of affairs. The association will continue to work with BCDC to insure full public access as originally specified. The association has never undertaken any action to deny full public access and they will continue to religiously protect this right. They do not, however, feel that the installation of the proposed gates will in any way affect legitimate public access. We ask the BCDC, in light of the above concessions, to rethink its position and to inform the City of San Leandro and the

appropriate authorities that it has no objection to the proposal conditioned upon the association completing the guarantee documents in a timely fashion.

Thank you for your attention to this matter and your anticipated cooperation. If you have any questions, please feel free to call the undersigned at any time.

Very truly yours,

A. Alan Berger

Cc: Client  
AAB/ceb

## CrimeReports.com data for Heron Bay in 30 day increments from 12/15/2013 – 6/12/2014

Time Block	Number of Incidents	Alarms
December 15 - January 14	10	5
January 15 - February 13	17	6
February 14 - March 14	13	5
March 15 - April 14	20	11
April 15 - May 15	13	6
May 16 - June 12	19	8

## Heron Bay Criminal Activity Detail for period 12/17/13 - 6/16/14

Excerpts from CrimeReports.com

	A	B	C	D	E
1	Date		Incident		ID #
2					
3	12/17/2013		Alarm		2013-00060127
4	12/22/2013		Alarm		60917
5	12/24/2013		Assault & Battery		61317
6	12/26/2013		Burglary		61473
7	12/30/2013		Auto Burglary		62147
8	1/3/2014		Alarm		2014-00000346
9	1/5/2014		Alarm		624
10	1/7/2014		Pursuit		879
11	1/17/2014		Alarm		2655
12	1/19/2014		Suspicious Circumstances		3089
13	1/20/2014		Alarm		3172
14	1/25/2014		Alarm		4065
15	1/28/2014		Alarm		4578
16	2/1/2014		Suspicious Person		5287
17	2/4/2014		Alarm		5822
18	2/6/2014		Stolen Vehicle		6059
19	2/6/2014		Stolen Vehicle Recovery		6077
20	2/10/2014		Suspicious Vehicle		6624
21	2/11/2014		Alarm		6898
22	2/12/2014		Theft		7217
23	2/14/2014		Stolen Vehicle		7255
24	2/16/2014		Vandalism		7724
25	2/21/2014		Burglary		8657
26	2/23/2014		Alarm		8928
27	2/24/2014		Alarm		9149
28	3/8/2014		Alarm		10965
29	3/10/2014		Alarm		11313
30	3/18/2014		Alarm		12499
31	3/20/2014		Alarm		12857
32	3/21/2014		Alarm		13038
33	3/22/2014		Stolen Vehicle		13148
34	3/23/2014		Alarm		13349
35	3/24/2014		Alarm		13385
36	3/24/2014		Alarm		13402
37	3/29/2014		Alarm		14229
38	3/30/2014		Suspicious Person		14358
39	3/31/2014		Alarm		14511
40	4/1/2014		Alarm		14766
41	4/4/2014		Alarm		15238
42	4/5/2014		Stolen Vehicle		15402
43	4/9/2014		Assault/Battery		16172
44	4/11/2014		Alarm		16392
45	4/21/2014		Alarm		18180
46	4/23/2014		Alarm		18572

Heron Bay Criminal Activity Detail for period 12/17/13 - 6/16/14  
Excerpts from CrimeReports.com

	A	B	C	D	E
47	4/26/2014		Alarm		19072
48	4/27/2014		Alarm		19235
49	4/30/2014		Vandalism		19636
50	5/2/2014		Alarm		19996
51	5/12/2014		Alarm		21537
52	5/18/2014		Alarm		22603
53	5/19/2014		Burglary		22744
54	5/19/2014		Alarm		22806
55	5/22/2014		Alarm		23276
56	5/24/2014		Alarm		23653
57	5/28/2014		Theft		24189
58	5/31/2014		Alarm		24650
59	5/31/2014		Alarm		24659
60	6/2/2014		Suspicious Vehicle		25134
61	6/5/2014		Bike Stop 12:00 a.m.		22527
62	6/6/2014		Hit & Run		25848
63	6/9/2014		Vandalism		26330
64	6/9/2014		Suspicious Vehicle		26334
65	6/10/2014		Theft		26451
66	6/10/2014		Suspicious Vehicle		26551
67	6/11/2014		Suspicious Vehicle		26731
68	6/12/2014		Alarm		26838
69	6/12/2014		Suspicious Vehicle		26891
70	6/13/2014		Suspicious Vehicle		27068