



Making San Francisco Bay Better

June 12, 2014

Cynthia Yonning, Community Manager
Heron Bay Homeowners Association
Professional Associations Services, Inc.
42612 Christy Street
Fremont, CA 94538-3135

SUBJECT: Proposed Construction of Access Gates at Bayfront Drive and Required Shoreline Access from Lewelling Boulevard, in the City of San Leandro (BCDC Permit No. 1992.057 and Enforcement File No. ER2014.015)

Dear Ms. Yonning:

I am writing this letter in regard to the Modification of Planned Development, PD-91-3, which the Heron Bay Homeowners Association (HOA) has proposed to the City of San Leandro's Planning Commission, agenda'd for its upcoming meeting on June 19th. The City of San Leandro's Staff Report states that the HOA wishes to change this designation so that gates and fencing can be constructed at the pedestrian and vehicular entrances to the development. According to the staff report, the changes proposed for the street and sidewalk west of the Lewelling Boulevard traffic circle would include "...construction of residents' vehicular and pedestrian gates measuring up to eight feet tall on Bayfront Drive." The report's exhibits indicate that the proposed approximately 3.2-foot-wide pilaster and 8.8-foot-wide fence panel and gate would visually and physically impede the existing 12-foot wide sidewalk and would reduce the entrance for cyclists and pedestrians from a BCDC-required eight-foot-wide to a four-foot-wide space (when the gate is held open). The HOA proposes that the vehicle gate would be closed at all times and accessible to residents only, and the bicycle/pedestrian gate would remain unlocked for public use during the day from sunrise to sunset.

As you know, the HOA is subject to the public access requirements of BCDC Permit No. 1992.057, which was issued to Citation Homes, the developer, in 1994. The HOA is the successor owner and the rights and obligations of the permit run with the land.

Upon learning of this gate proposal from the staff of the SF Bay Trail, I contacted you on May 8th and forwarded a copy of the HOA's permit to you. Special Condition II.F requires the permittee to build, maintain, and guarantee three segments of public access, one of which is an 8-foot-wide, 1,450-foot-long paved path "from Robert's Landing Slough, east past the railroad tracks to the City's public street." The permit refers to this facility as the Lewelling Boulevard Extension, or Segment 3 (see attached permit exhibit and current photo of the Segment 3 alignment).

Please understand that it would be a violation of the permit and of the Commission's law to make changes to the public access area without first obtaining written authorization from BCDC by amending the current permit. The HOA may submit a request to amend its permit at any time and we suggest that you do so soon to obtain a formal determination.

Cynthia Yonning
June 12, 2014
Page 2

It appears that the gate design as currently proposed to the City would adversely impact the existing required public access across the HOA's property, which provides access to the tidal marshes and trail systems west of Heron Bay on the City of San Leandro's property. As such, staff believes it would be difficult to approve the project as currently proposed. If you would like to schedule an appointment to discuss the proposed gates with staff, please feel free to contact our Permit Chief, Bob Batha at bobb@bcdc.ca.gov or at (415) 352-3612.

In my email to you, dated June 4, 2014, I asked for confirmation that you had notified the HOA's Board of the Directors that (1) the HOA is a successor to the permit, and (2) the legal instrument to guarantee the public access (see Special Condition II.F.2), which has never been submitted to BCDC must now be prepared and recorded. To this end, I am again providing you with the form and instructions to prepare the legal instrument, which are also available on our web site (<http://www.bcdc.ca.gov>). The email also established a voluntary period for submitting the draft instrument, by November 4, 2014, and for recording an executed guarantee by March 1, 2015. If you miss either of these dates, we will commence an administrative penalty clock. However, we believe this time period is generous and that the need to commence enforcement is unlikely if the HOA promptly attends to this matter. We are available to answer any questions you, the HOA, its counsel and/or surveyor may have. If you would like to discuss the public access guarantee, feel free to call me at (415) 352-3626.

We request that the Board of Directors responds to this letter in writing by close of business on June 20, 2014, Thank you for your attention to these matters and we look forward to working with you.

Sincerely,



ANDE R. BENNETT
Coastal Program Analyst

Enc.

ARB/gg

cc: Elmer Penaranda, Planner, City of San Leandro
Lee Huo, Association of Bay Area Governments Bay Trail Project