

**City of San Leandro  
Community Development Department  
Planning Services Division  
Staff Report**

**DATE:** June 19, 2014

**TO:** Planning Commission

**FROM:** Elmer Penaranda, Senior Planner 

**SUBJECT:** **PLN2014-00007**; Modification of Planned Development, PD-91-3, to construct new gates and fencing for the Heron Bay residential development. The proposed gates and fencing includes construction of: 1) resident's vehicular and pedestrian gates measuring up to eight feet tall located on Bayfront Drive; 2) visitor's gates up to eight feet tall located on Anchorage Drive; and 3) fencing and gates up to seven feet tall for the open space at the northern entrance of the development, setback approximately 25 feet from the face of the curb of the Lewelling Boulevard circle. RS(PD) Residential Single-Family, Planned Development Overlay District. Assessor's Parcel Numbers 80G-1325-5-1, 80G-1406-26, and 80G-1406-29. P. Hartzell, Bay Cities Automatic Gates (applicant); Heron Bay Homeowners Association c/o C. Yonning, Professional Association Services Inc. (property owner). **Continued from the May 15, 2014 Planning Commission meeting.**

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**SUMMARY AND RECOMMENDATION**

This matter was originally noticed for the May 15, 2014 Planning Commission meeting. Prior to that meeting, the applicant requested a postponement to the next Planning Commission meeting date. Staff recommended continuance of the matter and the Planning Commission approved to continue it to the June 19, 2014 meeting.

The Heron Bay Planned Development was granted and constructed as an open, non-gated residential community. The Heron Bay Homeowners Association (Association) proposes to construct various access gates for vehicles, and bicyclists and pedestrians. The purpose would be to control vehicular and evening bicyclist/pedestrian traffic into the Heron Bay residential development. The City has determined that the proposal is a major modification of the Planned Development, thus the proposal requires the review of the Planning Commission and eventual consideration by the City Council.

The approved Tract Map 6810 for the project site describes Bayfront Drive with a Public Access Easement (PAE) over the roadway and sidewalk. The intent of the PAE was for vehicle access on Bayfront Drive to the Bay Trail west of Heron Bay. The General Plan provides a policy to discourage the development of gated communities or the gating of already-developed subdivisions. The City's historic practice for residential planned developments has been for open, non-gated neighborhoods as new infill development (i.e., Cherrywood, Marina Vista, Magnolia Lane, Woodcreek, Camellia Court, Tulip Lane, Amber Court on Preda Street, Cherry Glen, Medallion, and Halcyon Manor residential subdivisions). In addition, the San Francisco Bay Conservation Development Commission (BCDC) has stated concern that the gates would restrict public access to the Bay Trail. Therefore, staff recommends that the Planning Commission deny the proposal to construct gates and fences to enter the Heron Bay development subject to the attached recommended resolution and findings for denial.

## **APPLICANT'S SUPPORTING STATEMENT**

See attached. Since the May 15, 2014 approved continuance by the Planning Commission, there has been no new information submitted by the applicant for the proposed gates and fences.

## **RELATIONSHIP TO SURROUNDING AREA**

Surrounding the subject property are various open space, wetlands, the San Leandro Shoreline Area and the Bay Trail to the west and north; Southern Pacific Railroad right-of-way along the east and the Mission Bay Mobile Home Park, Sandev Mobile Home Park, and Washington Manor neighborhood beyond the railroad line; and San Lorenzo Creek and San Leandro and San Lorenzo industrial neighborhood to the south. The existing zoning includes OS Open Space District to the west and north, various R Residential Districts to the east, and the industrial-zoned properties to the south.

## **BACKGROUND**

Per Planned Development, PD-91-3, and various subdivision maps, Heron Bay was constructed as an open and non-gated neighborhood at the west terminus of Lewelling Boulevard. The neighborhood comprises 629 residential units (451 detached single-family units and 178 motor court units) on approximately 70 acres. The remaining 400-plus acres are restored marshland between the new housing and the Bay. Part of the San Francisco Bay Trail in San Leandro extends from the from San Lorenzo Creek to Marina Park, which runs through the restored marsh next to Heron Bay, follows along the edge of the Bay, crosses a flood control channel to Marina Park, and continues north to Oyster Bay Regional Shoreline. The proposal to construct gates and fences is considered a major modification to the approved PD. Therefore, the request to modify the property development regulation shall be treated as a new application for the Planned Development approval.

## **DETAILS OF THE PROPOSAL**

The proposed gates and fencing would include decorative tubular metal fences, vehicle gates and pedestrian gates, and flagstone veneered columns/pilasters (see Exhibits B-D). The other related features includes motorized openers for the vehicle gates, cameras on the stone columns that record vehicle and pedestrian traffic, tire spikes on the exit only side of the vehicle gates, and appropriate signage and lights.

The stated purpose of the proposal is safety concerns, including a homicide of a resident in March 2013 on a homeowner's driveway by perpetrators from outside the Heron Bay subdivision, and unwanted solicitors, package thefts, vandalism and other public safety and nuisance issues. The Heron Bay homeowners passed a measure that they would pay a special assessment for security gates and fencing to reduce the ability of nonresidents from having unauthorized access into their subdivision. Since Heron Bay internal streets and sidewalks are privately owned and maintained by the Association, it was able to put this matter on a ballot for a vote by its residents.

### Site Plan

On Bayfront Drive, the proposed gates and fencing would be constructed approximately 65 feet from the Lewelling Boulevard and they would span the 53.5-foot width from the north soundwall to the south soundwall (see Exhibit B). The 12-foot northern segment includes a four-foot wide pedestrian gate with a height of six feet, nine inches tall. Spanning the 36-foot wide street for vehicular access would be an automated double gate, 18 feet each, with a height that gradually increases from

approximately six feet, six inches at the ends to eight feet tall to the center where the gates meet. At each end of the gates will be the eight-foot tall columns. The remaining 5.5 feet at the southern end includes the column and tubular metal fencing. These proposed improvements would also be supplemented by security cameras, a license plate reader, motorized gate openers, lighting, a card reader for residents with authorized identification cards to access the pedestrian gate, a Knox Box for Fire Department access, tire spikes on the egress side of the street, and signage warning of the tire spikes. In addition, there would be a timer, programmed to unlock the gate during the daylight hours for pedestrians wishing to access the Bay Trail via Bayfront Drive.

On Anchorage Drive, the proposed gates and fencing would be constructed approximately 80 feet from the southern edge of the Lewelling Boulevard circle and they would span approximately 75 feet in width from the existing utility building on the north end to a new fence on the south side of Anchorage Drive (see Exhibit C); similar in appearance to Bayfront Drive's proposed design. The southern segment would include a pedestrian gate, a card key reader, fencing, and a column. The segment north of that spanning the approximate 26-foot wide Anchorage Drive roadway would be an automated double gate, 13-feet each, with a height that gradually increases from approximately 6.5 feet at the ends to an eight feet height at the center where the gates meet. The remaining segment to the utility building would be six-foot tall fencing.

At the northern entrance of the development, set back approximately 25 feet from the face of the curb of the Lewelling Boulevard circle, the proposed fence line across the frontage of the park includes a manual vehicle gate for emergency vehicle access (with a Knox Box) and a pedestrian gate (see Exhibit D). The fence would span approximately 200 lineal feet across the frontage of the park. The fencing would be 6 feet tall, vehicle gates up to 7 feet tall, and the pedestrian gate 6 feet, 9 inches tall. In front of the proposed fence, on the left side of the emergency vehicle gate driveway would be an LED sign on a stone monument greeting drivers and pedestrians to Heron Bay.

#### Operations – Bayfront Drive

1. The proposed Bayfront Drive vehicle gates would be for residents with a remote opener and emergency vehicles.
2. The pedestrian gate would be set on a timer to allow free pedestrian access to the Bay Trail, west of the subdivision. To comply with the San Leandro Administrative Code Section 7.1.305(d) which stipulates that the Shoreline Area be open to the public one-half hour before sunrise, the timer could be multi-programmable for the fluctuating times, or set twice per year: 5:15 a.m. from April to September; and 6:45 a.m. for October to March. The pedestrian gate would lock after sunset to visitors. The gate would also be equipped with a card reader for residents to open the pedestrian gate after hours.
3. Both the vehicle gates and the pedestrian gate would allow exit from within Heron Bay at all times via the detection loops in the ground for vehicles and exit bar hardware on the inside of the pedestrian gate.
4. The cameras on the columns would record the entering and exiting vehicles, license plates and pedestrians.

#### Anchorage Drive

1. The proposed Anchorage Drive vehicle gates would be for visitors, residents with a remote opener and emergency vehicles.
2. Visitors would have to drive up to and stop at the pedestal which would be equipped with a phone entry system. Visitors would call their host, who would open the vehicle gate remotely

and allow entry by the visitor. Regular package delivery services (i.e., U.S. Postal, UPS, FedEx) would be provided a punch-in key code at the pedestal.

3. The pedestrian gate would be locked, equipped with a key card reader and be accessible only to residents with key cards.
4. A second phone entry system would be mounted on the side of the column near the pedestrian gate for pedestrian visitors to call their host.
5. The cameras on the columns will record the entering and exiting vehicles, license plates and pedestrians.

### Subdivision Park Entrance

1. The entire frontage would be fenced with the exception of the following two gates described below.
2. The vehicle gate would be locked, but be accessible by emergency vehicles via the Knox Box. It would replace the existing three bollards.
3. Similar to the Bayfront Drive pedestrian gate, this gate would be set on a timer to allow free pedestrian access to the Bay Trail.

### Summary of Access

1. Residents will have Vehicle ID tags on their vehicles that will be read by the automated gate systems on Bayfront and Anchorage Drives. They will also have key fobs which will open the three pedestrian gates.
2. Visitors driving their vehicles will not be able to enter through the Bayfront Drive vehicle gate, which is for residents only. Visitors must use the Anchorage Drive entry phone system and call the resident host and request permission.
3. Frequent and authorized visitors (delivery services, landscapers, Police Department, Public Works), will be given the access codes that can be punched into or a key fob that can access the Anchorage Drive entry system.
4. Emergency vehicles will use the Fire Department Knox Key in the Knox Box at either of the vehicle gates to access the inside of the development. The Knox switch opens both the entrance and exit gates until the Knox switch is turned back to the closed position.
5. Pedestrians using the Bay Trail will be able to open the pedestrian gate on Bayfront Drive and the Park pedestrian gate during daylight hours. They will not be permitted into the property in vehicles unless they are guests of residents. Currently there is no visitor parking permitted in Heron Bay unless the guest have obtained a required parking pass to park inside the development.

## **STAFF ANALYSIS**

### Past Approvals Intended an Open and Non-Gated Neighborhood

Tract Map 6810 specifies a Public Access Easement (PAE) on Bayfront Drive from the Lewelling Boulevard circle to the western terminus of Bayfront Drive (see attached). This is to permit access to the Bay Trail west of the Heron Bay development (see attached excerpt of San Francisco Bay Trail Map). The intent of the PAE was to provide vehicle and pedestrian access on Bayfront to the Bay Trail. In addition, City Engineer's Report and Conditions of Approval for Vesting Tentative Map Tract 6665 (an earlier Map to Tract 6810) 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 (see attached.).

At the Planning Commission's meeting on November 9, 1995, the developer's consultant stated that the development would not be gated (see attached Planning Commission Meeting Minutes, specifically page 7 of 11).

### Past Practice

In practice, the City within the last 30 years considers residential planned developments as part of the existing neighborhood, in that they are located in and are not to be isolated from the immediate neighborhood. Although planned developments are typically newer, they should form part of the existing neighborhood and not be separated by gates. The proposal would establish an undesirable precedent in the City's efforts to plan residential neighborhoods. The following are examples of past and recent residential in-fill neighborhoods or subdivisions without gates.

1. Washington Commons Condominiums, terminus of Fremont Avenue, 76 units, 1984
2. Pinewood, former Cleveland School site, 74 units, 1986
3. Magnolia Court, former Del Monte Research site, 31 units, 1990
4. Marina Vista, portion of former Marina High School site, 249 units, 1990
5. Robert's Landing/Heron Bay, 629 units, 1991-1995
6. Camellia Court, Preda Street, 35 units, 1992
7. Amber Court, Preda Street, 20 units, 1993
8. Tulip Lane, Preda Street, 40 units, 1994
9. Cherrywood, terminus of Alvarado Street, 354 units, 1998
10. Medallion, Fremont Avenue, 67 units, 1998
11. Woodcreek, terminus of Preda Street, 69 units, 2000
12. Halcyon Manor, near Kraft General Foods, 18 units, 2000
13. Cherrybrooke, Hesperian Boulevard, 16 units, 2002
14. Cherry Glen, Washington Avenue, 43 units, 2004

### General Plan

General Plan Policy 2.10 discourages the development of "gated" communities or the gating of already developed subdivisions, unless overriding public safety considerations exist. Police Department Crime statistics were prepared for the years 2012, 2013, and the first four months of 2014 (see attachments). The statistics report violent and top property crimes by Council Districts. Heron Bay is located in District 4. In reviewing the data, District 4 has a low occurrence of violent and top property crimes. In 2014 through April there were 1,447 such crimes; District 4 had 8 percent, compared to Districts 1, 3, 2, and 6, at 15, 15, 19 and 21 percent respectively. In 2013 and 2012 there were 4,724 and 4,397 such crimes, respectively. In each of those years District 4 had 9 percent, compared to Districts 1, 2, and 6, at 17, 18, and 20 percent, respectively. In light of the crime incidents data, Heron Bay, located in District 4, does not experience more crime than any other Council District in the City, thus there are not overriding public safety incidents that warrant constructing gates and fences at the development's entry.

The staff recommendation is to deny the proposal to construct gates at the entry of Heron Bay, and encourage other more effective and less exclusive safety and security measures be undertaken such as the installing of security cameras, maintaining and improving outdoor lighting, continuing the Neighborhood Watch efforts, working with the City's Police Department, and/or hiring private security to patrol the neighborhood.

## Gated Communities

According to Census Data, approximately 10 million housing units in the United States live in secured communities (American Housing Survey, 2009). These secured communities or gated communities restrict public access with walls, fences, gates with codes and alarms, and private security. Public access is restricted to streets, sidewalks, parks, open spaces, trails, and playgrounds, which are resources that should be open and shared by all citizens of a locality (Blakely & Snyder, 1997). In general, residents choose to live in gated communities for the sense of safety, privacy, community, and to keep out unwanted individuals such as strangers and thieves.

Studies and data indicate that besides car theft, gated communities do not have less crime than un-gated communities (Blakely, 2012). This is because gates provide little in the way of extra protection by creating an artificial or false sense of security, which can lead to complacency (e.g., leaving garage doors open). Also, the apparent affluence of a gated community can also make the community a more attractive target for a thief (Bell & Lang, 1998). Further, the effects of gating decline over time, since gates codes are shared with friends of residents, delivery people, vendors, and tradespeople (Snyder, 1997).

One important issue that faces gated communities is that the restricted gate access can hamper emergency personnel efforts of police, ambulances, and fire trucks through slower response times, which can lead to public safety issues. Also, gated communities can fragment neighborhoods and erode a sense of community, social stability, and social structure within a community, as residents located in gated communities are disconnected from their larger communities and are less likely to be civically engaged. The lack of social cohesion and lower social interaction may result in socioeconomic polarization, which can lead to segregation, isolation, and exclusion (Blakely & Snyder, 1997). It is believed that the Neighborhood Watch Program is the most effective way to reduce crime by neighbors keeping an eye out for each other, as a basic defense against crime and a means to build community (Drew & McGuigan, 2014).

## San Francisco Bay Conservation Development Commission (BCDC)

Prior to the May 15 Planning Commission meeting, BCDC stated that it had strong concern that the proposed gates and fences could restrict public access for walking, sitting, bicycling, viewing, picnicking and related purposes across Bayfront Drive at Heron Bay to the Bay Trail. It would research its current permits to the Heron Bay property and the City. Although the Bayfront Drive pedestrian gate would freely be open to hikers/walkers and bicyclists during the daytime hours, the restriction to evening access would be a violation of the existing BCDC permit.

On June 12, the City received a copy of a letter and exhibit from BCDC to the applicant, that clarifies the proposal would be a violation of its BCDC permit to make changes to the public access area without first obtaining written authorization from BCDC to amend the current permit. The letter further states that the gate as currently proposed would adversely impact the existing required public access across the Heron Bay HOA's property, which provides access to the tidal marshes and trail systems west of Heron Bay on the City's property. BCDC staff believes it would be difficult to approve the proposed project (see attached).

## Operations

Although the proposed gates and fences have been approved by the Association, operationally the volume of traffic would increase on Anchorage Drive and the east-west streets that it feeds (i.e., Charter Way,

Mariner Way, Oceanside Way, etc.). Visitor vehicular traffic would be restricted to use the Anchorage Drive gates. All of the visitors 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.

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 queuing of vehicles until it completes a three point turn around and allows traffic to flow again.

## **ENVIRONMENTAL ANALYSIS**

This project, to construct new gates and fences, is categorically exempt from the California Environmental Quality Act (CEQA) per CEQA Guideline Article 19, Categorical Exemption, Section 15303 (e), New Construction of Small Structures.

## **PUBLIC OUTREACH**

For the May 15, 2014 Planning Commission meeting, notices for the public hearing were mailed to all of the Heron Bay homeowners, property owners and business owners within 300 feet of the Heron Bay neighborhood, the Washington Manor Homeowners Association and the Golden State Mobilehome Owners League (Mission Bay). Placards were posted on utility boxes and poles at the Heron Bay entrance and at the corner of Lewelling and Wicks Boulevards. A legal advertisement was published in the Daily Review newspaper. A continuance to a date certain, June 19, 2014, does not require any further notification.

At the time of the May 15 Planning Commission mail-out, there was one person that provided comments supporting the project. William Young, a Heron Bay resident, emailed in support of the gates and fences.

After the May 15 mail out, the City received two emails from Mr. Kevin Zhang, a Heron Bay resident, stating opposition to the proposal. Two letters were also received. One was from Mr. Lee Huo, Bay Trail Planner for Association of Bay Area Governments (ABAG) stating opposition to the proposal and supporting City staff recommendation for denial. As discussed earlier in this report, a letter from BCDC to the applicant was received clarifying the proposal would be a violation its BCDC permit to make changes to the public access area without first obtaining written authorization from BCDC by amending the current permit. See attachments.

In archived City records from last year on July 18, 2013, Dr. Henry Lai, a Washington Manor resident having heard that the HOA was considering to construct gates at the Heron Bay entry emailed the City to state opposition to the proposal which would restrict public access to the Bay Trail. Staff informed Dr. Lai that his email would be forwarded to the Planning Commission at the time the matter would be considered.

## **RECOMMENDATION**

Staff recommends that the Planning Commission deny the proposed modification to the Planned Development subject to the attached recommended resolution and findings for denial.

## ATTACHMENTS

Email Correspondence from Kevin Zhang, dated May 14, 2014  
Email Correspondence from Kevin Zhang, dated May 27, 2014  
Letter from Lee Chien Huo, Bay Trail Planner ABAG, dated June 11, 2014  
Letter from Ande R. Bennett, Coastal Program Analyst BCDC, dated June 12, 2014  
Crime by Council Districts 2012, 2013, 2014 (through April)  
Email Correspondence from Henry Lai, dated July 18, 2013  
Applicant's Supporting Statement  
Vicinity Map  
Resolution and Recommended Findings of Fact For Denial  
Tract Map 6810  
City Engineer's Report and Conditions of Approval for Vesting Tentative Map Tract 6665  
Planning Commission Meeting Minutes of November 9, 1995  
Exhibit A – Site Map, Vicinity Map (Sheet BCAG-1)  
Exhibit B – Resident's Entrance Gate Plan (Sheet BCAG-2)  
Exhibit C – Visitor's Gate Plan (Sheet BCAG-3)  
Exhibit D – Park Entrance Gate and Fencing Plan (Sheet BCAG-4)  
Email from William Young, in support, dated May 7, 2014  
For Information Only – San Francisco Bay Trail Map (excerpt from <http://www.baytrail.org/baytrailmap.html>)  
For Information Only – Gated Communities References and Websites  
For Information Only – Photographs of Existing Site Conditions

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