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**Title:** Staff Report for PLN2014-00006; Modification of Planned Development, PD-77-11, to Permit the Installation of a Pedestrian Gate, an Automatic Vehicular Access Gate and Related Fencing to Secure the Floresta Gardens Homeowners Association Residential Condominium Community on Caliente Drive off of the Washington Avenue Frontage; RM3000 (PD) Residential Multi-Family, Planned Development Overlay District; Alameda County Assessor’s Parcel Number 77B-1139-89; R&S Overhead Garage Door Inc. (Applicant), Floresta Gardens Homeowners Association, K. Williams (HOA President)

**Sponsors:** Cynthia Battenberg

**Indexes:**

**Code sections:**

**Attachments:** 1. Applicants Supporting Statement.pdf, 2. Vicinity Map.pdf, 3. Excerpts Planning Commission Minutes 5-15-2014.pdf, 4. Letter from HOA President, May 14 with Supporting Letters.pdf, 5. Exhibit A Floresta Gardens Aerial Photograph.pdf, 6. Exhibit B Google Street View along Washington Avenue Frontage.pdf, 7. Exhibit C Site Plan and Elevations.pdf, 8. Exhibit D Proposed location photograph.pdf, 9. Exhibit E Existing Gates at Fremont Avenue Photograph.pdf, 10. Exhibit F Finials for top of gates and fences.pdf, 11. Exhibit G Arched top of gates and twisted know on bars.pdf, 12. Exhibit H Excerpts from PC Report for PD-77-11 Jan 26 1978.pdf, 13. Exhibit I Gated Communities References Websites.pdf, 14. Exhibit J Council Resolution PLN2014-00006 Denying PD Modif Floresta Garden Gates.pdf, 15. Supplement 4C Public Hearing 2014 0721.pdf, 16. PowerPoint 4C Public Hearing 2014 0721 Floresta Garden.pdf

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7/21/2014	1	City Council		Received and Filed

Staff Report for PLN2014-00006; Modification of Planned Development, PD-77-11, to Permit the Installation of a Pedestrian Gate, an Automatic Vehicular Access Gate and Related Fencing to Secure the Floresta Gardens Homeowners Association Residential Condominium Community on Caliente Drive off of the Washington Avenue Frontage; RM3000 (PD) Residential Multi-Family, Planned Development Overlay District; Alameda County Assessor’s Parcel Number 77B-1139-89; R&S Overhead Garage Door Inc. (Applicant), Floresta Gardens Homeowners Association, K. Williams (HOA President)

**SUMMARY AND RECOMMENDATIONS**

At its May 15, 2014 meeting, the Planning Commission heard the Floresta Gardens Homeowners Association (HOA) proposal to install vehicular and pedestrian gates and fencing across Caliente Drive (paralleling Washington Avenue), which would thereby create a gated residential community. The existing approved Planned Development permit allowed for the establishment of a residential condominium community with a gate restricting vehicular access at the rear entrance to the community on Fremont Avenue only. Restrictive fencing along the Washington Avenue frontage was not a part of the original proposal. Staff determined that the proposal is a major modification of the

Planned Development (PD) permit, and so the proposal requires a review and recommendation from the Planning Commission to the City Council, and approval by the City Council.

Staff recommended that the Planning Commission review the proposed modifications to the PD for the new gates and related fencing and deny the application due to its inconsistency with the General Plan. However, after the Planning Commission reviewed the proposal, heard public comments, and closed the public hearing, it instead made the necessary findings of fact and recommended that the City Council approve the proposed modification to the PD due to safety concerns related to cut-through traffic. The motion passed 5-0 (2 Commissioners were absent).

Planning Commission Recommendation:

The Planning Commission recommends that the City Council adopt a Resolution (see File 14-303 under tonight's City Council public hearing agenda) that will:

- A. Approve the project's categorical exemption under the California Environmental Quality Act (CEQA) per CEQA Guidelines Article 19, Section 15303 (e), New Construction of Small Structures.
- B. Approve PLN2014-00006 to modify Planned Development, PD-77-11, to permit the installation of a pedestrian gate, an automatic vehicular access gate and related fencing to secure the Floresta Gardens residential community on Caliente Drive off of the Washington Avenue frontage, subject to the Recommended Findings of Fact to Approve and subject to the recommended Conditions of Approval.

Staff Recommendation:

Although the Planning Commission recommended approval of the proposed modification, staff's position and recommendation as to deny the PD permit amendments as follows:

- A. Adopt the Resolution (see attached Exhibit J) that denies the request to modify Planned Development, PD-77-11, to the Floresta Gardens residential community. If the City Council adopts the staff's recommendation, it shall also adopt the Recommended Findings of Fact to Deny (see attached Exhibit J).

**BACKGROUND**

In 1977 and 1978, Planned Development permit -- PD-77-11 -- received City Council approvals for the general and precise development plans for the development of Floresta Gardens, an 84-unit residential condominium community on a 6.1 acre site (see attached Exhibit H for excerpts of the staff report from January 1978 for PD-77-11). It is located on the west side of Washington Avenue. To the north, is a shopping center that includes a Kmart, an Orchard Supply Hardware and Elios restaurant. To the east, across Washington Avenue are a variety of commercial uses including a gasoline station, auto repair business and restaurants. Adjacent to the south is Eden Roc Apartments and to the west is Washington Commons, a residential condominium community.

Floresta Gardens consists of 21 four-unit buildings, two roadways (Caliente Drive and Caliente Circle) and amenities for residents. Floresta Gardens is accessed via Caliente Drive, a private drive intersecting Washington Avenue as well as a secondary drive accessed from the cul-de-sac end of

Fremont Avenue.

During the original general development plan review process, City staff recommended that a restrictive gate be placed along the Fremont Avenue entry to discourage cut-through traffic. A dual-lift arm-style gate was approved during the precise development plan process. Due to repeated incidents of vehicles driving through the barrier and vandalism of the gates, a building permit application was submitted on behalf of the HOA to allow for the installation of a six foot tall remote controlled wrought iron vehicular swing style gate with a keyed pedestrian gate. In 2012, a building permit was issued to allow for installation of the requested vehicular and pedestrian gates along Fremont Avenue. Staff approved the building permit application due to the existing condition in PD-77-11 allowing for a vehicular gate along this frontage. A gate across the Washington Avenue frontage was not a part of the proposal at the time.

The proposal is to allow for construction of automatic vehicular and pedestrian access gates and related fencing across Caliente Drive paralleling the Washington Avenue frontage. The purpose of the proposal is to secure the Floresta Gardens Homeowners Association in order to prevent cut-through traffic between Fremont Avenue and Washington Avenue and to deter security problems such as stolen vehicles, home break-ins, transients, non-resident and unauthorized use of the swimming pool, illegal dumping and overnight parking in the development (see attached "Applicant's Supporting Statement").

The proposal includes removal of a block column and segment of block wall along the southern side of the entry driveway paralleling Washington Avenue (see attached Exhibits A-G for plan and photographs of existing conditions and proposed plans). This area lying 16-feet, seven-inches behind the back of sidewalk would be modified in order to allow for construction of a new concrete pillar; a two-foot, seven-inch wide by seven-foot tall wrought iron fence; and a new four-foot wide concrete walkway. Installation of a phone entry and Knox box key switch system is proposed within the existing landscape island approximately 23 feet behind the back of sidewalk. Located 51 feet behind the back of sidewalk, the applicant proposes to install a six-foot, 10-inch tall wrought iron pedestrian swing gate. The pedestrian gate can be accessed for entry with a key or by phone and would be unlocked for exiting. This pedestrian gate would tie into the adjacent five-foot, 10-inch tall wood fencing that provides a private outdoor space for the adjacent residence. In addition, the applicant proposes installation of two, six-foot tall, 14-foot wide wrought iron swing gates allowing for vehicle entry and exiting of the residential community. These gates and associated fencing will extend the width of Caliente Drive and tie into the existing block wall located along the northern property line. All proposed gates and fences would be located on private property and would be black in color.

A Planned Development (PD) is a special zoning entitlement that is granted after individual review of the specific application which includes site planning, use of the property, architecture, and landscaping. The applicant and property owner propose to modify the approved PD to allow for installation of vehicular and pedestrian access gates along the Washington Avenue entrance to Floresta Gardens which will result in the creation of a gated residential community. The City determined that the proposal is a major modification of the PD, thus the proposal requires the recommendation of the Planning Commission and approval by the City Council.

On May 15, 2014, the Planning Commission held a public hearing on the proposed plans. Although staff recommended denial of the PD modification, the Planning Commission received testimony from the public and after close of the public comments discussed the matter, and eventually found the proposal had merit (see attached Excerpts of the Planning Commission Meeting Minutes of May 15,

2014). The Planning Commission proceeded to make the necessary findings of fact and then recommended that the City Council approve the PD Modification to install the proposed gates and fencing.

The Planning Commission found the proposal consistent with the intent of the original PD-77-11 to prevent or eliminate cut-through traffic. The cut-through traffic was considered unsafe in terms of speed and volume to pedestrians and residents inside the community. Although there were public comments that addressed crime, the cut-through traffic was the overriding public safety consideration. The City's data on violent and property crimes in Council District 3, where Floresta Gardens is located, had a relatively low rate in comparison to other Council Districts.

The design and location of the gates and fencing would meet the objective for setback and sight distance. In this instance, the proposed installation would not isolate the development from adjacent properties and would not change the character of the area. The proposal was found to be adequate urban design by using metal with a decorative wrought iron appearance. Upon comparing the gates' setbacks to other residential developments in the area with gates and of the lower density of residential units to land area of Floresta Gardens to those other residential developments, there should be adequate setback for vehicles not to stack and impact traffic flow.

The Planning Commission also recommended that arrow points (spear tops) of the gates and fencing be revised to soften their appearance. Per the Planning Commission's recommendation, the applicant proposes to remove the spears atop the gates and fencing and replace them with "quad flare" finials which have four sides and a ball at the tip (see attached Exhibit F). In addition, the vehicular gates will be arched at the top and will include a little knot or twist pattern on the vertical bars to enhance the appearance of the proposal (see attached Exhibit G).

## **Analysis**

Although the Planning Commission recommends approval of the modification of the PD to install the gates and fencing, staff maintains its original recommendation that the proposal be denied. As discussed in-depth later in this report, staff seeks to uphold the General Plan Policy that discourages the development of "gated" communities or the gating of already developed neighborhoods or subdivisions. Staff recommends other effective and less exclusive safety measures to mitigate the cut-through traffic such as speed bumps/tables and rows of raised buttons to slow traffic down, supplemented by additional adjacent signs posted for drivers to reduce speeds.

## **Applicable General Plan Policies**

General Plan Policy 2.10, "Gated Communities," states, "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 associated fencing will result in the establishment of a gated community. Although the proposal will not change the internal circulation of the development it will change the character of the residential community in which it is located. The gating of Floresta Gardens along the Washington Avenue frontage will make the neighborhood appear separate and isolated from its surrounding environs.

According to Census Data, approximately 10 million housing units in the United States are in secured

communities (American Housing Survey, 2009). These secured or gated communities restrict public access with walls, fences, gates with codes and alarms, and private security. In general, residents choose to live in gated communities for the sense of safety, privacy, and 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 do not make communities safer and 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 theft, especially burglary (Bell & Lang, 1998). Further, the objectives of community gating decline over time, based upon studies that find gate codes are eventually 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). Studies show that a Neighborhood Watch Program is the most effective way to reduce crime primarily through neighbors keeping an eye out for each other, which is an effective basic defense against crime and a means to build stronger community (Drew & McGuigan, 2014).

### **Permits and/or Variances Granted**

PD-77-11 received City Council approvals for the general and precise development plans in 1977 and 1978 for the development of Floresta Gardens. It is accessed via Caliente Drive, a private drive intersecting Washington Avenue as well as a secondary drive accessed from the cul-de-sac end of Fremont Avenue. During the original review process, City staff recommended that a restrictive gate be placed along the Fremont Avenue entry to discourage cut-through traffic. A dual-lift arm-style gate was approved during the precise development plan process. Due to repeated incidents of vehicles driving through the barrier and vandalism of the gates, a building permit application was submitted to allow for the installation of a six-foot tall remote controlled wrought iron vehicular swing style gate with a keyed pedestrian gate. In 2012, a building permit was issued to allow for installation of the requested vehicular and pedestrian gates along Fremont Avenue. Staff approved the building permit application due to the existing condition in PD-77-11 allowing for a vehicular gate at this frontage. Restrictive fencing along the Washington Avenue frontage was not a part of the original proposal. The City determined that the proposal is a major modification of the PD, and therefore requires approval by the City Council.

### **Environmental Review**

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

### **Board/Commission Review and Actions**

The Planning Commission recommends approval of the modification of Planned Development permit, PD-77-11, to permit the installation of a pedestrian gate, an automatic vehicular access gate and related fencing to secure the Floresta Gardens condominium community.

### **Summary of Public Outreach Efforts**

For the City Council meeting, a legal advertisement notification for the public hearing was placed in *The Daily Review*. Notices for the public hearing were mailed to all of the Floresta Gardens property owners, and the property owners and business owners within 300 feet of the subject property. Placards were posted on the subject property and utility poles on Washington Avenue. The Planning Commission meeting on May 15, 2014 received similar noticing above.

### **ATTACHMENTS**

#### **Attachments to Staff Report**

- Applicant's Supporting Statement
- Vicinity Map
- Excerpts from the Planning Commission Regular Meeting Minutes of May 15, 2014
- Letter from Floresta Gardens Homeowners Association President, received May 14, 2014, including Residents Support Letters
- Exhibit A - Aerial Photo
- Exhibit B - Street View along Washington Avenue Frontage
- Exhibit C - Site Plan
- Exhibit D - Applicant's Photo of Entry with Proposed Fence Location Identified
- Exhibit E - Applicant's Photo of the Existing Gate Along the Fremont Avenue Frontage
- Exhibit F - Photograph of "Quad Flare" Finials for the Tops of the Gates and Fences
- Exhibit G - Photograph of Gates with an Arched Top and Twisted Knot Detail on Vertical Bars
- Exhibit H - Excerpts from the Planning Commission Staff Report for the Precise Development Plan (PD-77-11) dated January 26, 1978
- Exhibit I - Gated Communities References and Websites
- Exhibit J - Resolution and Findings of Fact For Denial

#### **Attachments to Resolution**

- Exhibit 1 - Findings of Fact
- Exhibit 2 - Recommended Conditions of Approval

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