

April 30, 2008

Mr. James DeLuz
Assistant Planner
City of Hayward
777 B Street
Hayward, CA 94541-5007

Re: Appeal of Planning Commission Decision

Dear Mr. DeLuz:

In response to the April 24th meeting of the Hayward Planning Commission, the Woodland Knolls Homeowner Association is appealing the decision to deny the installation of a security gate on Durham Way. The information that was presented in opposition to the gate was inaccurate and misleading.

- A. Repairs of the road - **have been** anticipated and monies **have been** set aside. Repaving was to take place after the installation of the gate was completed.
- B. Construction of the pedestrian/horse pass through - was designed to **HARD specification** and approved by the City.
- C. Landscaping and lighting - of the area around the gate has also been designated by the city in the preliminary plans and **has been** taken into consideration by the homeowners.
- D. Durham Way has always been a private road. When the developers first extended the street for home building, it was to have its own association on a private road.

These are just a few of the points to be reconsidered. The most important issue though is that of **SECURITY**. We, as an association, have always maintained that this gate was to help cut down on the crime. Our situation is very unique in that our homes are spaced far apart and the street is very wooded. The night following the city meeting we had a hit and run on our street between 12 and 1 am. Three people were injured because they were going to fast and lost control on a turn. That same night my wife's car was broken into and items were stolen. Unfortunately, burglaries have become all too common on Durham Way. When do we say enough? Why, when we are on a private road, following the latest bi-laws/CC&R's rules and regulations of our association, and having the approval of both the City Council and **HARD** from our original request over ten years ago, are you denying our request. **PLEASE RECONSIDER OUR REQUEST FOR A SECURITY GATE**

Sincerely,



Bill Maier, President



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, April 24, 2008, 7:30 p.m.
777 B Street, Hayward, CA 94541**

MEETING

The regular meeting of the Hayward Planning Commission was called to order at 7:30 p.m., by Chair Peixoto followed by the Pledge of Allegiance.

ROLL CALL

Present: COMMISSIONERS: McKillop, Sacks, Lavelle, Mendall, Thnay, Loché
 CHAIRPERSON: Peixoto
Absent: COMMISSIONER: None

Staff Members Present: Conneely, DeLuz, Rizk, Lens

General Public Present: Approximately 27

PUBLIC COMMENTS

There were none.

PUBLIC HEARING

1. **Site Plan Review No. PL-2007-0463 –Woodland Knolls Homeowner’s Association (Applicant/Owner) – Request to Install an Automatic Security Access Gate across Durham Way - The Project is Located Approximately 140 Feet Northerly of the Intersection of Durham Way and Oakes Drive in a Single-Family Residential (RSB40) Zoning District (Continued from March 27, 2008)**

Assistant Planner DeLuz summarized the staff report and clarified the history of Durham Way.

Commissioner Mendall noted that the quality of the road was poor compared to other nearby streets. Assistant Planner DeLuz indicated that the maintenance of Durham Way, a private street, is the responsibility of the homeowner’s association. In response to the number of gated communities in Hayward, Mr. DeLuz indicated that most newly constructed multifamily condominium properties have gates and that there are four single family residential subdivisions with gates: Green Briar, Stonebrae, Vista Bahía, and Bello View Estates. Mr. DeLuz stated that this proposal is the first application submitted for a second time for a gate within an existing subdivision on a private street.

In response to Commissioner Loché’s inquiry whether this project might set precedence, Mr. DeLuz indicated that he did not know of another neighborhood that would meet the characteristics of the proposed application. Mr. DeLuz further stated that the application conforms to the Security Gate Ordinance. Planning Manager Rizk indicated that the previous application was approved ten years ago and did not lead to construction of many gates for single-family subdivisions.

Commissioner McKillop inquired about the process for getting speed bumps and similar road improvements installed on public streets. Associate Planner DeLuz indicated that Public Works has procedures in place with specific criteria. Planning Manager Rizk indicated that the Woodland Knolls Association By-Laws supports requirements for private security gates and sets the threshold for approval.

Chair Peixoto opened the public hearing at 8:00 p.m.

Mr. Glen Cartwright, Durham Way resident for 18 years, spoke strongly in favor of the proposed gate because it would improve the safety of the neighborhood and would also reduce crime. He also indicated that parking on Durham Way and having non-Durham residents access the Ward Creek Trail would be independent of the gate. He stated that according to the Police Department, the gate would reduce the indiscriminate traffic. In response to the Commissioners, Mr. Cartwright indicated that residents and/or guests park illegally on Durham Way and in the cul-de-sac. He stated that the neighborhood has experienced break-ins to homes during the day, and nuisance from teenagers that come to that area. Commissioner Mendall suggested that more no-parking signage and additional lighting in the area could significantly lessen the existing problem.

Mr. William Maier, Woodland Knolls Homeowners Association President and Durham Way resident for 30 years, expressed support for having a gate governed by the Board. He stated that the association's position was that crime occurs during the day.

Ms. Shirley Maier, Durham Way resident, shared her personal experience about incidents related to vandalism and numerous burglaries which have occurred during the day. Ms. Maier noted that the Police Department does not have sufficient manpower to adequately attend to burglary incidents. She stated that the gate was twice approved by the association and is designed to provide security for residents and to restrict vehicular traffic. In response to Commissioner Mendall on whether the gate was worth building if it was required to remain open from 7:00 a.m. to 7:00 p.m., she stated that it was not.

Mr. Mike Maier, Crestmont resident who grew up on Durham Way, reiterated frustration about vandalism and numerous burglaries during the day which he had experienced. He spoke against leaving the gate open from 7:00 a.m. to 7:00 p.m.

Ms. Henny Chapnick, Durham Way resident for 25 years, opposed the proposed gate indicating that it is not a solution to a social problem. Ms. Chapnick noted studies that concluded that gates do not prevent crime, but would create socio-economic differences between the neighborhoods. She asked that she not be fenced in.

Ms. Sara Quintero, Oakes Drive resident, indicated that a solution to more security would be for private homeowners to purchase security systems for their homes. She indicated that the Palma Ceia neighborhood would also need a gate due to its high crime volume. She did not favor an entry gate because it represents elitism. She also stated that residents tend to park in front of Oakes Drive. She questioned the vacation of Durham Way noting cases supporting her position against the staff proposal. In response to Commissioner Mendall in regard to the legality of vacating the right-of-way, Assistant City Attorney Conneely indicated that when the street was vacated, the residents were most likely notified and that the time to challenge such action had passed, and now



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such property had been conveyed to property owners.

Mr. Bud Eckert, Oakes Drive resident, reminded the attendees that in 1998, one of the Commissioners voted against the gate because of a potential for setting a precedent. Mr. Eckert confirmed that residents park on Durham Way all the time and that the gate might create a precedent for other neighborhoods. He noted that the law states that gates require 100% of the affected residents' approval. He stated that he had also experienced crimes and burglaries, and to approve the gate would not be fair to other neighborhoods. He also stated that another reason to have the gate was to raise property values, and that approving the gate will constitute the approval for 24 hours a day. He commended Mr. DeLuz's work.

Mr. Saied Haddad, Oakes Drive resident, opposed the application because of the potential for setting a precedent. Mr. Haddad added that it would create physical boundaries, socio-economic segregation, and elitism.

Ms. Deborah Eckert, Oakes Drive resident, opposed the proposed gate, stating that Mr. Cartwright misrepresented the Woodland Knolls homeowners by neglecting to state disadvantages to having the gate, the opposition of other homeowners, and not addressing how the gate would negatively impact property values.

Dr. Aleta Azimi, Durham Way resident for 30 years, read a statement by Paul and Michelle Louie regarding support for the proposed gate. The letter was submitted for the record. Dr. Azimi also expressed support for the proposed gate.

Dr. Marshall Mitzman, Durham Way resident, spoke in favor of the security gate. He clarified that the proposed gate would be inside his property line and the maintenance of the driveway would be assessed by the homeowner's association. He stated that he did not want to keep neighbors from coming to Durham Way, but was in favor of restricting vehicles and nuisances to the area. In response to the Commissioners, Dr. Mitzman stated the association's opposition to leaving the gate open during the day because of the crime concern; and added that the gate would diminish illegal parking on Durham Way; and indicated he did not foresee concerns from neighbor's vehicles or individuals causing nuisance to his property.

Ms. Goergianra Ostarello, Durham Way resident, opposed the proposed gate because it would segregate the community. Ms. Ostarello stated that the Woodland Knolls Homeowner's Association voted for a gate assessment, but the future responsibility and the gate maintenance were not addressed. She had not been aware of easement records for the association's acceptance for responsibility for the roadway. She added that the gate would not serve its purpose because Durham Way opens into the canyon, parks, and trails. Lastly, she urged the Commissioners to vote against the application.

Mr. Andrew Ostarello, Oak Creek Place resident, read a statement by Ms. Dolores Odell from Durham Way stating her opposition to the security gate because of delay concerns for emergency vehicles. Mr. Ostarello expressed his opposition to the gate because he did not believe that a

security gate would significantly decrease crimes. He stated that the gate would be ineffective and ceremonial and would serve to segregate. Lastly, he indicated that the gate would not be cost effective in addressing security concerns.

o Mr. Bob Perry, Pelham Place resident, indicated that State law under the Subdivision State Map related to gated communities, requires 100% of property owner's approval and inquired why the City can circumvent the law. Assistant City Attorney Connelly responded by indicating that she did not see any impediment to acting on the application.

✓ Mr. Doug Grandt, Oakes Drive resident, showed a slide presentation, pointing out that the proposed gate drawing is incomplete and asked for rejection of the application. He indicated that the roadway needs maintenance. He lastly stated that the gate is not effective for incapacitated pedestrian and horse entrance and asked that the ordinance be reviewed.

o Mr. Ron Allen, PhD, Durham Way resident, spoke in support of the gate. Dr. Allen stated that the security gate would restrict vehicular traffic. He added that burglaries occur during the day time. He also mentioned that the desire of the association is to construct and maintain the gate. He submitted his statement for the record.

o Mr. Neil Shumate, Picea Court resident, indicated that his neighbors would like to be located on a private street. He mentioned that the homes that have security concerns do not have fences. He inquired about the effectiveness and safety of the poles on the gate. He was opposed to the security gate and asked for legality clearance before proceeding.

Chair Peixoto closed the public hearing at 9:22 p.m.

In response to Commissioner Lavelle's inquiry for the rationale behind the Condition of Approval No. 4, Attachment H, that the gate remain open between the hours of 7:00 a.m. and 7:00 p.m., Assistant Planner DeLuz indicated that it was based upon input received by both the opponents and proponents of the gate proposal. He added that the Police Department did not have opposition to the proposal.

Commissioner Thnay apologized for his absence at the previous meeting. He indicated that a security gate could prevent burglaries. Mr. Thnay spoke to the uniqueness of the topography and indicated that the condition of the street could be attributed to vehicular traffic on the private street. He sympathized with the neighbors that have to pay for the maintenance of the street.

Commissioner Lavelle thanked all for their input received on this item. Ms. Lavelle indicated that she is a resident of Oakes Drive and she did not have a conflict of interest on the issue. She respected all the concerns raised. She made a motion to deny that the project is exempt from environmental review pursuant to the California Environmental Quality Act and deny the Site Plan Review application. She indicated that the motion was made based on planning regulations and compliance to the Security Gate Ordinance. She did not agree with three of the Site Plan Review Findings for approval: Finding No. 1, that the security gate is compatible with on-site and surrounding structures and attraction; Findings No. 3, that the development complies with the intent of City development policies and regulations, e.g., Sec 10-14.202 – Single Family Communities, subsection (g), which claims that all property owners want to be gated; Finding No. 4, that the



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development will be operated in a manner acceptable and compatible with surrounding communities because there is opposition by the neighbors and there is no agreement to leave the gate open during the day. She agreed with Finding No. 2. She added that if the Woodland Knolls Homeowner's Association wants to pursue this application further, they would need to obtain the consensus of the people in opposition. She did not think this would be precedent setting and was optimistic about other strategies to stop crime.

Commissioner Mendall seconded the motion.

Commissioner Sacks indicated that there were good arguments presented on both sides. Ms. Sacks noted that if the association should pursue the application, she would suggest amending the recommended condition of approval to close the gate 24 hours a day. She was not sure about making a final decision.

Commissioner Mendall noted concurrence with Commissioner Lavelle's eloquent motion. Mr. Mendall noted that the problems are valid and encouraged the association to consider other ways of addressing the situation, e.g., additional lighting and no parking signage or add the service of a private security patrol. He urged compromise among neighbors.

Commissioner McKillop indicated that she lives at Woodland Estates and she could relate to the burglaries and mail stealing and she also sympathized with the concerns raised by the community. She did not support the condition for the gate to remain open from 7:00 a.m. to 7:00 p.m. She also did not agree with Site Plan Review Finding No. 4 because surrounding communities oppose the application. Therefore, she supported Commissioner Lavelle's motion.

Commissioner Loché showed appreciation for all the input. Mr. Loché indicated that the security gate could contribute to a divisive community, but it would make people feel more secure. He indicated that the concerns raised were about loitering and teenagers parking, but the burglary concerns were more obvious. He supported the security gate and felt that the times for the gate to remain open could be decided by the residents of Durham Way. He added that should the gate be constructed, he recommended it be moved further east and that the pedestrian poles be wide enough to accommodate pedestrian and horses passage. He did not support the motion.

Commissioner Thnay indicated support for the security gate with a compromise so that the majority of the residents could be served. He added that if the application does not get approved, the proponents should find consensus among the neighbors.

Commissioner Sacks concurred with Commissioner Loché, adding that the gate be closed 24 hours. Ms. Sacks shared her personal experience from having lived in a half gated community, indicating that it had not stopped crime but has made people feel safer.

Chair Peixoto indicated that he is also a member of Woodland Estates Homeowner's Association and did not feel his participation to be a conflict of interest. Mr. Peixoto had seen the two

communities torn apart and indicated that the concerns expressed about crime and burglary occur throughout Hayward. He referred to a personal experience where his truck was stolen. He did not favor gated communities. He mentioned that when Woodland Knolls decided to have a private road, they took on the responsibility to maintain it. He mentioned that he did not want to impose on proponents of the gate, but he was concerned about the disapproval of other residents and surrounding neighbors. He supported the motion.

Commissioner Lavelle moved, seconded by Commissioner Mendall, and deny with the following vote, that the project is categorically exempt from environmental review pursuant to the California Environmental Quality Act (CEQA), per CEQA Guidelines Section 15303(e): New Construction or Conversion of Small Structures; and to deny the Site Plan Review application.

AYES: Commissioners McKillop, Lavelle, Mendall
Chair Peixoto
NOES: Commissioners Sacks, Thnay, Loché
ABSENT: None
ABSTAINED: None

ADDITIONAL MATTERS

2. Oral Report on Planning and Zoning Matters
Planning Manager Rizk announced a Joint Work Session meeting regarding the Historic Preservation Ordinance scheduled for April 29, 2008. He also followed up on a request by Commissioner Mendall regarding graffiti on a building on Industrial Parkway.
3. Commissioners' Announcements, Referrals
Commissioner Loché announced that he would not be in attendance at Tuesday's Joint Work Session.

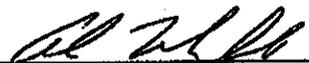
APPROVAL OF MINUTES

The Minutes of March 27, 2008 were approved.

ADJOURNMENT

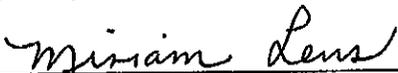
Chair Peixoto adjourned the meeting at 9:57 p.m.

APPROVED:



Al Mendall, Secretary
Planning Commissioner

ATTEST:



Miriam Lens
Commission Secretary

DURHAM WAY GATE APPLICATION CHRONOLOGY

The Planning Commission (4-3) denied the Site Plan Review application by the Woodland Knolls Homeowners Association ("WKHA") for a security gate on April 24, 2008. The WKHA filed an appeal of that decision to the City Council. The appeal is tentatively scheduled to be heard on November 18, 2008.

January 9, 1997: The Planning Commission recommended approval of the WKHA's Site Plan Review application for a security gate.

February 11, 1997: The City Council approved the WKHA's application for a security gate. At the same time as that approval, the CC vacated its interest in the public portion of Durham Way, created a private road and conveyed its fee interest in a one-foot spite strip on Durham Way by adopting the following resolutions:

Resolution No. 97-016: "Resolution Summarily Vacating the Most Southern Portion of Durham Way and Authorizing Conveyance to the Woodland Knolls Homeowners Association"

(This resolution contains a clerical error in that the conveyance of the City's interest, by operation of law, is to the underlying fee owners, the Eckerts and the WKHA, who each own the fee interest to the center line of the vacated road. As a general rule, deeds are not recorded for vacations in which the City does not own the underlying fee.)

Resolution No. 97-017: "Resolution Summarily Vacating Surplus Property Parcel No. 110 and Authorizing Conveyance to the Woodland Knolls Homeowners Association"

(This resolution vacated the City's fee interest in the one-foot spite strip on Durham Way and authorized conveyance to the WKHA. A grant deed was recorded for this vacation because the City owned the underlying fee.)

Resolution No. 97-018: "Resolution Designating Vacated Portions of Durham Way as a Private Street"

Resolution No. 97-019: "Resolution Approving Site Plan Review Application No. 96-130-04 of Woodland Knolls Homeowners Association (Applicant/Owner)"

December 13, 2004: Grant of Private Street Easement granted by the Eckerts to the WKHA, allowing a private street and entrance gates.



CITY OF
HAYWARD
HEART OF THE BAY

DATE: April 24, 2008

TO: Planning Commission

FROM: James V. De Luz, Assistant Planner

SUBJECT: Site Plan Review No. PL-2007-0463 –Woodland Knolls Homeowner’s Association (Applicant/Owner) – Request to Install an Automatic Security Access Gate across Durham Way (**Continued from March 27, 2008**)

The Project is Located Approximately 140 Feet Northerly of the Intersection of Durham Way and Oakes Drive in a Single-Family Residential (RSB40) Zoning District

RECOMMENDATION

That the Planning Commission:

1. Find that the project is categorically exempt from environmental review pursuant to the California Environmental Quality Act (CEQA), per CEQA Guidelines Section 15303(e): New Construction or Conversion of Small Structures; and
2. Approve the Site Plan Review application, subject to the attached findings and conditions.

SUMMARY

The Woodland Knolls Homeowner’s Association proposes to install an automatic security access gate across Durham Way, a private street, to restrict vehicular access during late evening and early morning hours. Site Plan Review is required for any project unless the Planning Director determines that the design meets all requirements, City Policies, standards and guidelines. Although the proposed gate is consistent with such standards, the Planning Director is referring this application to Planning Commission because of the level of public interest received by the City both in favor of and in opposition to the proposed security gate. Installation of the gate is supported by the majority of the Durham way residents through the Woodland Knolls Homeowner’s Association. Out of the 17 members, 12 support the gate and 5 oppose it. Several property owners along Oakes Drive in the Woodland Estates Homeowners Associations area, including the adjacent property owner, oppose the gate.

The security gate conforms to all requirements of the City's "Security Gate Regulations for Single-Family Communities." Durham Way does not provide access to any other properties but for those in Woodland Knolls. Because parking on Durham Way is prohibited and parking restrictions are enforced when necessary there should be no parking impact to Oakes Drive as trail users should be parking on Oakes Drive currently. Trail users will continue to have unrestricted pedestrian access to the trail head. Traffic should not back up at the gate as residents may automatically open the gates prior to their approach. Gates of this type operate quietly.

The Hayward Area Recreation & Park District (HARD) does not object to the security gate provided the gate is constructed to its standards and that HARD is provided a remote access control device for its staff to service the Ward Creek Trail. A condition of approval reflects this request.

BACKGROUND

March 27, 2008 Planning Commission Meeting

The Site Plan Review application was scheduled for public hearing before the Planning Commission March 27, 2008. The application was continued to April 24, 2008, because it is City policy to grant a continuance to applicants when less than six Commissioners are in attendance as was the case at the March 27, 2008, public hearing. During the public comment portion of the meeting, as reflected in the attached minutes, three Oakes Drive residents: Bud Eckert, Doug Grandt and Sara Quinteros, expressed their dissatisfaction with the Planning Commission granting the continuance of the public hearing. They indicated opposition to the gate and cited various concerns with the continuance, such as frustration and disappointment that there would not be public testimony that evening, that the public was not informed in a timely manner about the continuance, and that granting the continuance would give the applicants an unfair advantage that would allow them additional time to further research their proposal. Several Planning Commissioners and the Chair offered their apologies to the attendees.

History

The portion of Durham Way located immediately north of its intersection with Oakes Drive, approximately 140 feet of roadway, was created as a public street when the upper Woodland Estates area was developed in 1965. It was built to accommodate future development of the area north of Oakes Drive. In 1975, Durham Way was extended to create the development of Woodland Knolls, a 25-lot subdivision. The subdivision designated the extension of Durham Way as a private street. In 1996, the Woodland Knolls Homeowner's Association proposed to install an automatic security access gate, which was approved by the Planning Commission in January 1997 and by the City Council in February 1997. The 1997 Planning Commission and City Council meeting minutes for of the security gate approval action have been included as attachments. Site Plan Review Application 96-130-07 was also accompanied by abandonment of the public portion of Durham Way, which required City Council approval, thereby making all of Durham Way a private street and allowing such street area to be part of the Eckert property, which is located at the northwest corner of Oakes Drive and Durham Way. The Eckert's subsequently granted the Woodland Knolls

Homeowner's Association a private street easement, executed on December 13, 2004, over their portion of the vacated street for private street purposes including roadway, utilities and the installation of a security gate. The grant of private easement for the new private street was recorded by the Alameda County Recorder on March 17, 2005. The Eckert's also continued to maintain a side yard gate that provides access from their rear yard onto Durham Way. The driveway access lacks the standard curb cut and driveway approach.

Because gate construction and installation were delayed for unforeseen financial reasons and the Homeowner's Association failed to request a time extension for the project, approval expired in 1998. Staff did not pursue recording the private street documents after the expiration of the Site Plan Review 96-130-07, until representatives of the Woodland Knolls Homeowners Association contacted staff to do. This delay did not impact the conversion of Durham Way to a private street, since State law does not require a street abandonment to be tied to the development of a project. The Woodland Knolls Homeowners Association did not pursue the second gate proposal until after all documentation was recorded and the Woodland Knolls Association Board, after a majority vote of the association membership, submitted a new application to install the security gate which occurred in September 2007. The Eckerts and other property owners in the area now oppose the gate (Attachment F).

Project Description

The proposal includes two electronically-controlled, decorative metal double-swing gates. Each gate is approximately 14 feet in width. A separate pedestrian, equestrian and bicycle access is provided, which will not be gated, to serve the Ward Creek Trail access off Durham Way. The electronic control equipment to operate the gate is within the private street, at the west side of the gate. Residents will use an automatic opening device to access the gate while an emergency access system or "Knox Box" will be provided for Police and Fire, City inspection, utility and other health and safety vehicles. A four digit access code will also be provided to both Fire and Police dispatch when an emergency response call is received for Durham Way and personnel are dispatched. Other utility services, i.e. waste disposal, PG&E, telephone and cable, will also be assigned a four-digit entry code and the Postal Service will have a postal key switch. This system will be keyed into the telephone system and the telephone system will be available to the public who may have need for entry. A battery operated back-up system will also be in place in the event of a power outage.

The Association intends to provide unrestricted access to Durham Way from early morning through the early evening. The gates will close automatically each day in the later evening after the evening commute time and reopen prior to the start of early morning traffic. A condition of approval will require that the gate remain open between the hours of 7:00 a.m. and 7:00 p.m. daily.

The entrance is designed to include a landscape median that will be planted with ground cover and shrubs. A gap in the median will allow vehicles that are not permitted access into the subdivision a means to turn around and return to Oakes Drive. The entrance lane is 20 feet in width and will allow residents and visitors entering the gate a means of by-passing another vehicle that may be held-up at the gate entrance. An existing street light is located just north of the security gate at the west side of Durham Way and a new street light is proposed at the east side of the street opposite

the planter island, well away from any existing residence. Such lighting will provide sufficient security lighting about the gate area, and safety features will also include the installation of reflectors attached to the inside and outside of both gates, lane striping and reflective pavement markers which will provide guidance for drivers during hours of darkness.

DISCUSSION

Staff Analysis

According to the majority of the Woodland Knolls residents, Durham Way has been, for many years, a place where non-residents have driven to congregate during the evening and early morning hours to enjoy the view, but also to loiter. Residents report that they have placed numerous calls for police service. The Police Department provided a call for service report from April 1, 2006 to April 2, 2008. The record cited a total of 39 calls for service that were reported on Durham Way during that time period and included numerous miscellaneous calls and other various calls for auto burglary, (2 calls), Hayward Traffic Code violation, (5 calls), suspicious vehicle, (7 calls), etc. This averages to 1.15 calls per home per year. Residents feel that because of their remote location, police response is at times delayed. It is the opinion of the majority of residents that this alternative means of security, in addition to the Police Department, would best serve the neighborhood's security needs.

Many comments were received opposing the security gate. Approximately 12 letters were received in opposition (Attachment F) and four in favor (Attachment G). Of the 12 letters received in opposition to the gate, four of the letters were submitted by residents of Durham Way, including John and Georgiandra Ostarello, Delores Odell, J. and K. Chun and Robert and Henny Chapnick. A petition in opposition was submitted with 77 signatures, all from the Woodland Estates neighborhood except for one from a resident of Fairview Road. Comments from Oakes Drive residents cited concerns with potential parking problems on Oakes Drive by hikers accessing the Ward Creek Trail, the loss of property values, creating a separate neighborhood within a neighborhood and the sense of isolating a part of a neighborhood that never before appeared isolated. On-street parking is prohibited on Durham Way and is posted "No Parking or Loitering". Parking restrictions are enforced by Woodland Knolls residents when necessary. The Police Department does not oppose the installation of the security gate. A minority of Durham Way residents stated that the security gate will create a sense of divisiveness in the neighborhood and will not provide true security in that anyone wanting to enter the private street will find some other way to access the neighborhood.

Security Gate Ordinance

Staff's recommendation to approve the Site Plan Review is based on the security gate meeting all criterion and required standards of the City's "Security Gate Regulations" Section 10-14.202 Single-Family Communities. The applicants have redesigned the gate to minimize the impact to neighbors, conform to required design standards and a condition of approval of the Site Plan Review will require the gate to remain open from 7:00 a.m. to 7 p.m. daily. Keeping the gate open during hours of heavier usage will address neighbors concerns regarding vehicular and pedestrian

access and other perceived issues such as vehicular emissions, vehicular noise, vehicular lights, traffic queuing etc.

The security gate conforms to all standards of the Security Gate Regulations and in particular to:

- a) ***Security gates that conform to applicable standards shall be permitted across private streets unless the Planning Director, in consultation with the City Engineer, Determines that an unsafe traffic situation would be created, that the gate would result in interruption of the street network, or where public access to public amenities or facilities would be obstructed or hindered.***

The gate location and design has taken into consideration traffic design concerns in that the gate entry area has been widened, a pass-through has been provided to allow vehicles denied access onto Durham Way to enter the exit lane and prevent vehicles from queuing at the entry area and that pedestrian, equestrian and vehicular access has been provided thereby preventing interruption of the street network and still allowing public access to the Hayward Area Recreation Districts Ward Creek Trail access.

- b) ***Access shall be provided at all times for police, fire, City Inspection, utility and other health and safety related vehicles. A gate opening system to provide for emergency vehicle access shall be installed to the satisfaction of the Police and Fire Marshal.***

This requirement is met in that a Knox Box System and emergency number override is designed into the gate system. Both Police and Fire have commented on the gate and will review the building permit application when plans are submitted to the City.

- c) ***Only decorative metal is permitted for security gates and fencing unless an alternative material is approved by the Planning Director. The use of razor wire, barbed wire, or similar deterrents is prohibited in residential projects.***

The gate design incorporates decorative metal.

- d) ***Entrances to gated private streets shall be designed to allow vehicles to turn around on-site without backing onto public streets.***

A median gap and escape by-pass are designed into the project.

- e) **A bypass lane and a call box are required.**

Both are provided per the site plan labeled Exhibit "A". A bypass lane is provided in that the ingress lane was widened to 18-feet to allow two vehicles to pass side-by-side within the lane and exit via the pass through and out to Oakes Drive and a call box is provided at the gate.

- f) **Median islands, located in private street entrances, shall be set back a minimum of 20-feet from the intersection of the public right-of-way. All median islands shall be landscaped to the satisfaction of the City of Hayward Landscape Architect.**

A median island is provided and is setback approximately 125-feet from the intersection of Durham Way and Oakes Drive which is the public right-of-way.

- g) **When a request is made to an existing community, all property owners within the area to be gated, or their homeowners association, shall agree in writing to the request and agree to be responsible for maintenance of the gate equipment, fences, walls traffic control devices, roadway and landscaping. The Covenants, Conditions and Restrictions (CC&R's) shall reflect all conditions of approval for the security gate.**

Twelve of seventeen homeowners have voted in favor of the gate. A condition of approval will require the Homeowners Association to modify their CC&R's to reflect these requirements.

- h) **All security gate systems shall provide security lighting for vehicles and pedestrian entrances, the visitor parking space(s), and the vehicle turnaround area. The Planning Director shall approve the lighting design.**

Lighting is shown indicated on the official Site Plan labeled "Exhibit A" per this requirement.

- i) **Reflectors shall be attached to the interior and exterior sides of the gate at the height between 1 and 3-feet.**

Reflectors are shown on the official Site Plan labeled "Exhibit A".

- j) **A landscape plan prepared by a licensed landscape architect is required unless a plan is waived by the Planning Director because quality, well maintained landscaping already exists or the proposed design does not require additional landscaping. All landscape areas shall be irrigated.**

The median island is shown to be landscaped as indicated on the official site plan labeled "Exhibit A". A condition of approval requires the submittal of a comprehensive landscape and irrigation plan prepared by a licensed landscape architect to the City Landscape Architect for approval.

The operation and maintenance of the security gate will be conditioned so that it is acceptable and compatible with surrounding single-family residents through the adoption of operating conditions and requirements, such as shielded lighting and open-gate requirements. The gate has been located to minimize impacts, such as noise and light, to non-residents while allowing established non-resident vehicular and pedestrian access to Durham Way to continue

Site Plan Review Findings

In order for the Site Plan Review to be approved, the following findings must be made.

1. ***The security gate is compatible with on-site and surrounding structures and uses and is an attractive addition to the City.***

The security gate design incorporates a decorative metal design as is required by the City's Security Gate Ordinance, it is setback approximately 140-feet from the public right-of-way and because it is adequately setback from the intersection of Oakes Drive and Durham Way, the gate should not appear to dominate the existing streetscape. The project as conditioned will allow pedestrian access into the subdivision in order to provide continued access to the Ward Creek Trail operated by the Hayward Area Recreation & Park District.

2. ***The development takes into consideration physical and environmental constraints.***

The gate was originally proposed to be located closer to Oakes Drive and opposite the Eckert's dwelling at the northwest corner of Oakes Drive and Durham Way. The applicants agreed to relocate the gate further north on Durham Way to its current proposed location, approximately 140-feet back from the public right-of-way on Oakes Drive and opposite the rear yard of the Eckert residence. This location allows the Eckert's to maintain their access to a side yard gate that provides access from their rear yard onto Durham Way.

3. ***The development complies with the intent of City development policies and regulations.***

The proposed security gate, its design and location is in compliance with all of the adopted standards of the Security Gate Ordinance for Single-Family Communities.

4. ***The development will be operated in a manner determined to be acceptable and compatible with surrounding communities.***

The security gate location was modified and the gate moved to address complaints from the adjacent property owners at the northwest corner of Oakes Drive and Durham Way, the Eckert's, who raised issues regarding vehicular and gate operational noise, aesthetics, neighborhood perception and access to a side street yard double-swing gate. The Durham Way security gate was moved further north on Durham Way to address the neighbor's access concerns. The gate access controls will be located approximately 80 feet north of the Eckert's residence and separated by a solid board fence 6 feet in height.

PUBLIC NOTICE

On March 17, 2008, a Notice of Public Hearing for the Planning Commission meeting was mailed to the properties within a 300-foot radius and to interested parties. This item was continued to April 24, 2008, at the March 27, 2008 meeting.

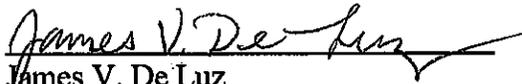
ENVIRONMENTAL REVIEW

The project is categorically exempt from environmental review pursuant to the California Environmental Quality Act (CEQA), per CEQA Guidelines Section 15303; New Construction or Conversion of Small Structures (e) fences. No significant environmental impacts are expected to result from the project.

NEXT STEPS

If the site plan review application is approved and not appealed to the City Council the Woodland Knolls Homeowner's Association would be required to obtain building and electrical permits before installing the gate. If the gate is approved the Association anticipates the installation of the security gate during 2008.

Prepared by:



James V. De Luz
Assistant Planner

Recommended by:

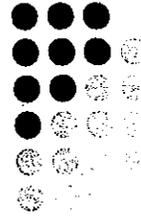


David Rizk, AICP
Planning Manager

Attachments:

- A. Area & Zoning Map
- B. Vicinity Map
- C. Planning Commission Minutes, January 9, 1997
- D. City Council Minutes, February 11, 1997
- E. Draft Minutes, 2008 Planning Commission Meeting Minutes
- F. Woodland Knolls Homeowner's Association Supplemental Information
- G. Findings for Approval
- H. Conditions of Approval
- I. Correspondence in Opposition
- J. Correspondence in Support
- K. Ordinance No. 98-07
Plans

Woodland Knolls Homeowner's Association



November 11, 2007

Mr. James V. DeLuz
 Assistant Planner
 Planning Division
 Dept. of Community and Economic Development
 City of Hayward
 777 B. Street
 Hayward, Ca 94541-5007

RECEIVED

NOV 14 2007

PLANNING DIVISION

RE: Woodland Knowles Homeowners Association (WKHOA) Response to your letter of October 11, 2007 regarding Security Gate application PL-2007-0463 Site Plan.

Dear Mr. DeLuz,

Thank you for your letter and providing us the opportunity to respond to each of the eleven (11) questions posed. To ensure that we have accurately responded to each question, we have presented each question in *italic* followed by our response. Where additional materials, drawings, and/or other documents were requested to clarify our response, said materials have been attached as exhibits (A-D).

1. *Revise sheet-A-1 of the proposed development plans to include the window locations of the single-family residence, 3884 Oaks Drive, located at the northwest corner of Durham Way and Oaks Drive. Specifically, indicate the locations of all windows along the easterly and northerly sides of the dwelling.*

WKHOA Response:

Revisions to sheet-A-1 of the development plans have been completed and attached as Exhibit A to this response. The revision clarifies the location of the single-family residence located at the northwest corner of Durham Way and Oaks Drive and details the window locations on the easterly and northeasterly sides of the dwelling. It is notable that there is not a line of sight from the private road to the windows of the dwelling. Said line of sight is prevented by a continuous fence spanning the length of the dwelling property. See Exhibit A

2. *Submit a fencing detail of the existing 8'-0" high fence located along the easterly property line of the single-family residence at 3883 Oaks Drive.*

WKHOA Response:

A fencing detail has been incorporated into the revisions to sheet-A-1 of the development plans and attached as Exhibit A to this response. As noted in the revised development plan, the dwelling fence is an established solid core continuous wooden fence with a height that completely conceals windows on the east side of the dwelling. See Exhibit A.

3. *Submit manufacturer's specifications that address decibel levels generated by the mechanical operations of the gate's opening and closing movements.*

WKHOA Response:

The swing gates are operated via an electronic control system that does not generate a discernable noise at a distance of 3 feet from the gate control unit. At a distance of less than three feet a low grade actuation sound of approximately 20Db's can be discerned during the movement of the swing gate. The gate will make no mechanical noise during the opening or close phase of its operation. Additionally, the swing gates will make no discernable noise when completing the opening or closing phases of operation.

4. *Submit a proposal addressing how the gate functions during power outages and a description of an emergency back-up system.*

WKHOA Response:

Both automatic swing gates will have "Elite" DC -2000 battery back-up systems. These will automatically open the swing gates and hold them open in the event of a power failure. Further, upon restoration of power, the gates will resume normal operation. There is also a manual override allowing the swing gates to be opened from inside the swing gates. Each member of the HOA will be instructed on how to affect the manual override. Please see Exhibit B (Letter from R& S erection of Southern Alameda County, Inc.)

5. *Address how access shall be provided for delivery and service vehicles that must enter onto the private street. Particularly, services that do not require any interaction with homeowners such as mail, utility services, etc.*

WKHOA Response:

Utility services (City, Waste Disposal, PG&E, Telephone, and Cable) will be provided a 4 digit entry code programmed into the telephone entry system. Each of the utility services will be assigned the same entry code. The gate will automatically open for exiting vehicles.

For postal service will use their postal key switch located on the face of the telephone system. Other delivery services such as Fed Express, DHL, and UPS will be issued a 4 digit access code. The gate will automatically open for exiting vehicles. Please see Exhibit B.

6. *Submit a current copy of the Bylaws/CC&R's governing the Woodland Knolls Homeowner's association.*

WKHOA Response:

A copy of the approved Woodland Knolls BY-Laws, dated 27 August 1973, with pages numbered 1-11, have been included within Exhibit (F). Additionally, a current copy of the "Declarations of Covenants, Conditions and Restrictions" (CC&R), dated 27 August 1973 with pages numbered 1-20, have been included in Exhibit C.

7. *Submit a record of or the verification of the vote or the procedure by which it was determined that the property owner's granted agreement to the installation of the security gate.*

WKHOA Response:

We have attached within Exhibit (G) a copy of the procedure followed ("Election Rules") in executing the vote by the members of the Woodland Knolls HOA. Additionally, we have included a copy of the Official Vote Count Certification. The vote was completed by secret ballot. The ballots were sealed and opened in the presence of several members of the HOA. A listing of HOA members who witnessed the opening of the ballots has been included within Exhibit D.

8. *The proposed automatic gate shall be equipped with fire key switches. The design shall meet the approval of the City Engineer and the Fire Chief.*

WKHOA Response:

The requirements of the City Engineer and the City Fire Chief have been carefully considered and incorporated into the gate design. There is a "fire key switch" (Knox #3502) installed at the telephone system. The switch will lock open both swing gates until the fire department closes the gates with the key switch. The provision of the Fire Key switch allows instant access by the Fire Department. Additionally, an access code will be provided to the Fire and Police dispatch centers thereby providing responding personnel access codes at the time they are dispatched. Please see Exhibit B (Letter from R& S erection of Southern Alameda County, Inc.)

9. *The minimum driveway ingress width shall be at least 18feet measured from face of curb to face of curb.*

WKHOA Response:

The gate design, method of construction and operation provides for ingress egress width to exceed the minimum width established by the City. The estimated ingress will exceed 20feet as measured from curb face to curb face.

10. For traffic circulation purposes no parking shall be allowed at the gate entrance. Curbs shall be painted red and "No parking" signs shall be installed along both sides of the section of Durham Way. The locations of the signs and red curbs shall be approved by the City Engineer and the Fire Chief.

WKHOA Response:

The posting of "No Parking" signs was considered and integrated into the overall project plan. Said signs shall be posted according to guidance provided by the City Engineer and City Fire Chief. Additionally, the painting of both curb facings leading up-to the gate was also considered and integrated in the overall project plan. Both curbs shall be painted "red" to support the posted "No Parking" signs thereby further indicating that parking is prohibited.

11. The new street light on the east side of Durham Way must be installed within the project boundary so that it can be maintained by the Woodland Knolls Homeowner's Association.

WKHOA Response:

The street light was considered and incorporated within the project plan. Lighting is a key element within the project plan. Discussions with Pacific Gas & Electric (PG&E) have already been held, surveys completed, proposals reviewed and preliminary planning work was performed by PG&E to meet this specific requirement. The street light shall be installed.

Again, we thank you for the opportunity to respond to each of the questions posed by the various city departments. We noted from your letter that other departments may have also have questions that have not been asked. We look forward to being responsive to there needs.

Respectfully,



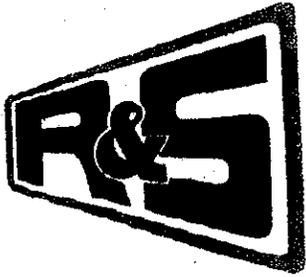
Glen Cartwright
Woodland Knolls Homeowner's Association
265335 Durham Way
Hayward, Ca 94542

Attachments

NOTE:

Due to the size of the revised Sheet A-1 of the Development Plans, it has been attached to the bound formal response.

See Attached revised Sheet A-1 of the Development Plans.



R & S ERECTION OF SOUTHERN ALAMEDA COUNTY, INC.

31298 SAN ANTONIO STREET * HAYWARD, CALIFORNIA 94544 * (510) 489-8881 * FAX (510) 489-8709

WOODLAND KNOLLS HOMEOWNERS ASSOCIATION

SUBJECT: LETTER OF INCOMPLETE FOR THE PROPOSED SECURITY GATE APPLICATION PL-2007-0463 SITE PLAN REVIEW FROM THE CITY OF HAYWARD DATED 11-11-07, ITEMS #4, 5, & 8.

TO WHOM IT MAY CONCERN:

#4) BOTH AUTOMATIC SWING GATES WILL HAVE "ELITE" DC-2000 BATTERY BACK UP SYSTEMS. THESE WILL AUTOMATICALLY OPEN THE SWING GATES (AND HOLD THEM OPEN) IN THE EVENT OF A POWER FAILURE AND PUT THEM BACK IN NORMAL OPERATION WHEN POWER IS RESTORED.

#5) ACCESS FOR UTILITY SERVICES ETC., THEY WILL BE GIVEN A 4 DIGIT ENTRY CODE, PROGRAMMED INTO THE TELEPHONE ENTRY SYSTEM, (THE EXIT GATE WILL AUTOMATICALLY OPEN FOR ALL EXITING VEHICLES) DELIVERY SERVICE SUCH AS UPS OR ANY VISITOR CAN SIMPLY USE THE TELEPHONE ENTRY SYSTEM FOR ACCESS OR AN ACCESS CODE CAN BE ISSUED TO THEM. THE US MAIL SERVICE WILL USE THEIR POSTAL KEY SWITCH THAT WILL BE INSTALLED ON THE FACE OF THE TELEPHONE SYSTEM.

#8) THERE WILL BE (1) FIRE DEPARTMENT KEY SWITCH ("KNOX" #3502) INSTALLED AT THE TELEPHONE SYSTEM, IT WILL LOCK OPEN BOTH SWING GATES UNTIL THE FIRE DEPARTMENT CLOSES THE GATES WITH THE KEY SWITCH.

YOURS TRULY,

A handwritten signature in black ink, appearing to read 'Tim Selvidge', written in a cursive style.

TIM SELVIDGE

13 To 15 SECONDLY TO OPEN GATE

STEEL ROLLING DOORS • ROLLING GRILLS
GATE SYSTEMS • MOTOR OPERATORS • GARAGE DOORS • DOCK EQUIPMENT

BY-LAWS
OF
THE WOODLAND KNOLLS ASSOCIATION

I

NAME AND LOCATION

The name of the corporation is THE WOODLAND KNOLLS ASSOCIATION, hereinafter referred to as the "Association". The principal office of the corporation, not being within the subdivision but as close as practicable, shall be located at 1122 "B" Street, Hayward, California 94541; however, meetings of members and directors may be held at such places within the State of California, County of Alameda, as may be designated by the Board of Directors, with the approval of the Association.

II

DEFINITIONS

Section 1. "Association" shall mean and refer to THE WOODLAND KNOLLS ASSOCIATION, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons, or entities, of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Member" shall mean and refer to every person or entity who holds a membership in the Association.

Section 4. "Properties" shall mean and refer to that certain real property described in the Declaration, and such additions thereto as may hereafter be brought within the jurisdiction of the Association by virtue of the operation of said Declaration.

Section 5. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the members of the Association.

Section 6. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties and the improvements thereon as the word "Lot" has been defined in the Declaration filed in connection with said properties, with the exception of the common area.

Section 7. "Declarant" shall mean and refer to the FIRST RIDGEWOOD CO., a partnership, its successors and assigns, if such successors or assigns should acquire one or more undeveloped lots from the Declarant for the purpose of development.

Section 8. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the properties recorded in the Office of the County Recorder of Alameda County, California, on August 29, 1973, on Reel 3500 at Image 277.

III

MEMBERSHIP

Section 1. Membership. Every person or entity who is a record owner of a fee or undivided fee interest in any lot, or portion thereof, which is subject by the covenants of record to assessment by the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment by the Association. Ownership of such lot shall be the sole qualification for membership.

Section 2. Classes of Membership. The corporation shall have two (2) classes of membership:

A. Class "A" members shall be all those owners as defined in Section 1 of this Article III with the exception of the Declarant. Class "A" members shall be entitled to one (1) vote for each lot in which they hold the interest required for membership by Section 1 of this Article III. When more than one (1) person holds such interest in any such lot, all such persons shall be members. The vote for such lot shall be exercised as they among themselves determined, but in no event shall more than one (1) vote be cast with respect to any lot.

B. The Class "B" member shall be the Declarant. The Class "B" member shall be entitled to three (3) votes for each lot in which it holds the interest required for membership by Section 1 of this Article III. Class "B" membership shall cease and be converted to Class "A" membership on the happening of either of the following events, whichever occurs earlier:

(1) when the total votes outstanding in the Class "A" membership equal the total votes outstanding in the Class "B" membership; or

(2) on December 31, 1975.

Section 3. Suspension of Membership. During any period in which a member shall be in default in the payment of any annual assessment or special assessment levied by the Association, the voting rights and right to use of the common areas of such member may be suspended by the Board of Directors until such assessment has been paid. Such rights of a member may also be suspended, after notice and hearing, for a period not to exceed fifteen (15) days, for violation of any rules and regulations established by the Board of Directors governing the use of the common area and facilities.

IV

PROPERTY RIGHTS - RIGHTS OF ENJOYMENT

Section 1. Each member shall be entitled to the use and enjoyment of the common area and facilities as provided in the Declaration. Any member may delegate his rights of enjoyment to the common area and facilities to members of his family, his tenants or contract purchasers, who reside on the property. Such member shall notify the secretary in writing of the name of any such delegee. The rights and privileges of such delegee are subject to suspension to the same extent as those of the member.

V

BOARD OF DIRECTORS: SELECTION - TERM OF OFFICE

Section 1. Number. The affairs of this Association shall be managed by a Board of five (5) directors who need not be members of the Association.

Section 2. Election. At the first annual meeting the members shall elect three (3) directors for a term of one (1) year, two (2) directors for a period of two (2) years and at each meeting thereafter the members shall elect ~~one (1) director for a term of five (5) years.~~ *directors for two (2) year terms.*

Section 3. Removal. Any director may be removed from the Board, with or without cause, by a vote of the holders of a majority of the voting power of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor. Cumulative voting is required.

Section 4. Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expense incurred in the performance of his duties.

Section 5. Action taken without a meeting. The directors shall have the right to take any action in the absence of a meeting, which they could take at a meeting, by obtaining the written approval of all directors.

VI

MEETINGS OF DIRECTORS

Section 1. Meetings. Meetings of the Board of Directors shall be held when called by the president of the Association, or by any two (2) directors, after not less than five (5) days notice to each director. Provided, further, a minimum of one (1) meeting each six (6) months must be held.

Section 2. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

Section 3. Action without meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the Board of Directors.

Section 4. Waiver of Notice. Before or at any meeting of the Board of Directors, any director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board shall be waiver or notice by him of the time and place thereof. If all directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

VII

NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee, composed of a chairman, who shall be a member

of the Board of Directors, and two (2) or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nomination may be made from among members or nonmembers.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of these By-Laws. The persons receiving the largest number of votes shall be elected.

Cumulative voting is ~~required~~
permitted.

VIII

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. The Board of Directors shall have the power to:

- A. adopt and publish rules and regulations governing the use of the common area and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;
- B. exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws or the Declaration;
- C. declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors;
- D. employ a manager, or independent contractor contracting for materials and/or services for the common area or the owners' Association with the term of any service contract limited to a duration of one (1) year, except with the approval of a majority of the members of the owners' Association; and
- E. an owner shall grant right of entry to the Board of Directors or persons as they shall authorize, in case of emergency originating in or threatening his unit; whether the owner is present at the time or not.

Section 2. Duties. It shall be the duty of the Board of Directors to:

A. cause to be kept a complete record of all its acts and Association affairs and to present a statement thereof to the members or at any special meeting, when such statement is requested in writing by one-fourth (1/4) of the Class "A" members who are entitled to vote;

B. supervise all officers, agents and employees of the Association, and to see that their duties are properly performed;

C. as more fully provided herein, and in the Declaration, to:

(1) fix the amount of the annual assessment against each lot at least thirty (30) days in advance of each assessment period, as hereinafter provided in Article XII, and

(2) send written notice of each annual assessment to every owner subject thereto at least thirty (30) days in advance of each annual assessment period.

D. issue, or cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

E. procure and maintain adequate liability and hazard insurance on property owned by the Association;

F. cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

G. cause the common area to be maintained; and

H. to do such other acts or functions as are required of the Association by the Declaration.

LX

COMMITTEES

Section 1. The Association shall appoint an Architectural Control Committee as provided in the Declaration, and a Nominating Committee, as provided in these By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purposes, such as:

A. Maintenance Committee which shall advise the Board of Directors on all matters pertaining to the maintenance, repair or improvement of the properties, and shall perform such other functions as the Board in its discretion determines;

B. Publicity Committee which shall inform the members of all activities and functions of the Association, and shall, after consulting with the Board of Directors, make such public releases and announcements as are in the best interests of the Association; and

C. Audit Committee which shall supervise the annual audit of the Association's books and approve the annual budget and statement of income and expenditures to be presented to the membership at its regular annual meeting as provided in Article XI, Section 8D. The Treasurer shall be an ex-officio member of the committee.

Section 2. It shall be the duty of each committee to receive complaints from members on any matter involving Association functions, duties and activities within its field of responsibility. It shall dispose of such complaints as it deems appropriate or refer them to such other committee, director or officer of the Association as is further concerned with the matter presented.

Section 3. The directors shall not be personally liable for the debts, liabilities or other obligations of the Association.

X

MEETINGS OF MEMBERS

Section 1. Annual Meeting. The first annual meeting of the members shall be held when fifty-one percent (51%) of the lots are sold, or within six (6) months from the sale of the first lot, whichever first occurs, and each subsequent regular annual meeting of the members shall be held on the same day of the same month of each year thereafter, at the hour of eight o'clock p.m. (8:00 p.m.). If the day of the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

ANNUAL MEETING TO BE HELD ON THE 2ND MONDAY OF JANUARY

(CHG. AT ANNUAL MEETING OF 31 JAN 79)

Section 2. Special Meetings. Special meetings of the members may be called at any time by the President or by the Board of Directors, or upon written request of the members who are entitled to vote one-fourth (1/4) of all the votes of the entire membership or who are entitled to vote one-fourth (1/4) of the votes of the Class "A" membership.

Section 3. Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days before each meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting and, in the case of a special meeting, the purpose of the meeting.

Section 4. Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast one-half (1/2) of the votes of each class of membership shall constitute a quorum for any action except as otherwise provided in the Declaration or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 5. Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his lot.

XI

OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Officers. The officers of this Association shall be a President and Vice-President, who shall at all times be members of the Board of Directors, a Secretary, and a Treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

Section 3. Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified herein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled in the manner prescribed for regular election. The officer elected to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one (1) of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

A. President. The President shall preside at all meetings of the Board of Directors and at all meetings of the members; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall cosign all checks and promissory notes.

B. Vice-President. The Vice-President shall act in the place and stead of the President in the event of his absence, inability to act or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

C. Secretary. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; serve notice of meetings of the Board and of the members; keep the corporate seal of the Association and affix it on all papers requiring said seal; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board.

D. Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by the resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; facilitate the preparation of an annual operating statement reflecting income and expenditures of the Association for its fiscal year with provision for distribution of a copy of said report to each member within 90 days after the end of the fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy to each of the members.

XII

BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The Declaration, Articles of Incorporation and By-Laws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost.

XIII

CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words THE WOODLAND KNOLLS ASSOCIATION.

XIV

AMENDMENTS

Section 1. These By-Laws may be amended, at a regular or special meeting of the members, by a vote of fifty-one percent (51%) of a quorum of members, or fifty-one percent (51%) of all voters, by a vote of proxy or in person.

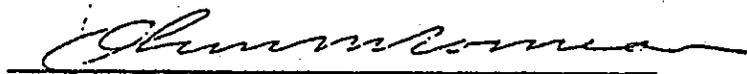
Section 2. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

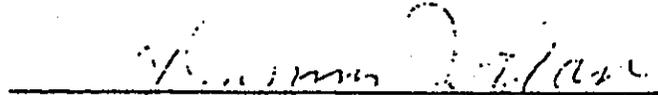
MISCELLANEOUS

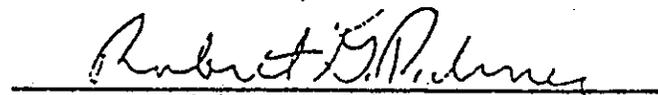
The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

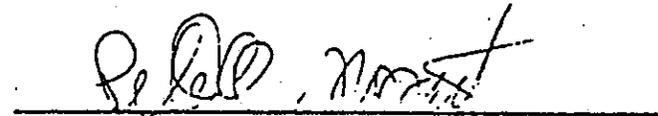
IN WITNESS WHEREOF, we, being all of the Directors of THE WOODLAND KNOLLS ASSOCIATION, have hereunto set our hands this 27th day of August, 1973.


George P. Oakes


Oliver M. Rousseau


Dennis P. Jordan


Robert G. Palber


Peter A. Nossardi

CERTIFICATION

I, the undersigned, do hereby certify that I am the duly elected and acting Secretary of THE WOODLAND KNOLLS ASSOCIATION, a California corporation; and

THAT the foregoing By-Laws constitute the original By-Laws of said Association, as duly adopted at a meeting of the Board of Directors thereof, held on the 27th day of August, 1973.


Secretary



1190 Russell Way
Hayward, CA 94541
(510)537-8300 Fax No. (510)537-0928

DATE: July 8, 1998

Better Homes
Attn: Barbara Johnson
22097 Redwood Rd.
Castro Valley, CA

ESCROW NO.: 98220601
LOAN NO.:
SELLER:
BUYER:
PROPERTY: 26637 Durham Way
Hayward, CA

Please find enclosed: copy of the C C & R's

Thank you and have a wonderful day

NORTH AMERICAN TITLE COMPANY

Sue Smith /dc

Suzanne Hooten Smith CSEO
Branch Manager

When recorded mail to:
PACIFIC LAND TITLE COMPANY
1504 Franklin Street
P.O. Box 1978
Oakland, California

RECORDED IN THE OFFICIAL RECORD OF
ALAMEDA COUNTY ON Aug 29, 1973
Under Recorder's Serial No. 73-118370
Pacific Land Title Company
By A. Virena

26624
DURHAM WAY
HAYWARD, CA
ISAAC KIM
(510) 872-9981

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made this 27th day of August, 1973, by the
FIRST RIDGEWOOD CO., a general partnership, hereinafter designated as "Declarant":

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain real property situated in the City
of Hayward, County of Alameda, State of California, described as follows:

Lots 1 to 16, Tract 3432, recorded December 27, 1972 in Book
77 of Maps, Pages 30 and 31, Alameda County records.

WHEREAS, it is the desire and intention of the Declarant to sell the property
described above and to impose on it mutual, beneficial restrictions under a general
plan or scheme of improvement for the benefit of all of the land in the tract and fu-
ture owners of those lands;

NOW, THEREFORE, the Declarant hereby declared that all of the property des-
cribed above is held and shall be held, conveyed, hypothecated or encumbered, leased,
rented, used, occupied, and improved, subject to the following limitations, restric-
tions, covenants, reservations, servitudes, easements, liens and other charges, all of
which are declared and agreed to be in furtherance of a plan for the subdivision, im-
provement and sale of the lands, and are established and agreed upon for the purposes
of enhancing and protecting the value, desirability, and attractiveness of the lands
and every part thereof. All of the limitations, restrictions, conditions and covenants
shall run with the land and shall be binding on all parties having or acquiring any
right, title or interest in the described lands or any part thereof.

I

DEFINITIONS

Section 1. "Association" shall mean and refer to THE WOODLAND KNOLLS ASSOCIA-
TION, a California nonprofit corporation, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or
more persons or entities of a fee simple title to any lot which is a part of the
properties, or any portion or resubdivision thereof as hereinafter provided, including
contract sellers, but excluding those having such interest merely as security for the
performance of an obligation.

Section 3. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 4. "Properties" shall mean and refer to that certain real property hereinabove described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 5. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners.

Section 6. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties with the exception of the common area. However, any lot within the above described Tract 3432 exceeding one (1) acre may without approval of the members, prior to January 1, 1977, be divided into any number of lots provided each of said lots shall not be less than one (1) acre in size. However, any resubdivision after the date of January 1, 1977 will require approval by a two-thirds (2/3) vote of each class of membership excluding the vote of the Declarant.

Section 7. "Declarant" shall mean and refer to the FIRST RIDGEWOOD CO., a general partnership, its successors and assigns, if such successors or assigns should acquire one (1) or more undeveloped lots from the Declarant for the purpose of development.

II

PROPERTY RIGHTS

Section 1. Every owner shall have a right and easement of enjoyment in and to the common area which shall be appurtenant to and shall pass with the title to every lot subject to the following provisions:

A. The right of the Association to suspend the voting rights and right to use of the common area by an owner for any period during which any assessment against his lot remains unpaid; and for a period not to exceed thirty (30) days for any infraction of its published rules and regulations after hearing by the Board of Directors of the Association; and

B. The right of the Association to dedicate or transfer all or any part of, or all of any of its rights into, the common area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed

by two-thirds (2/3) of the class members, excluding the vote of the Declarant herein, agreeing to such dedication or transfer that has been recorded.

Section 2. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the common area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. The Declarant hereby covenants for itself, its successors, heirs and assigns, that it will convey fee simple title to the common area to the Association, free and clear of all encumbrances and liens, prior to the conveyance of the first lot.

Section 4. There shall be reciprocal appurtenant easements for the maintenance and repair for all streets and roadways, storm sewers, street lights, landscape and sign areas and all slope control areas; together with the right of ingress and egress for purposes of repair and maintenance.

Section 5. There shall be no judicial partition of the common area, nor shall a grantor or any person acquiring an interest in a lot, or any part thereof, seek any judicial partition thereof; provided, however, that if any lot shall be owned by two (2) people or more cotenants as tenants in common, or as joint tenants, nothing herein contained shall be deemed to prevent a judicial partition as between such cotenants.

Section 6. Easements for installation and maintenance of utilities and drainage facilities are shown on the recorded map or have been recorded prior to the conveyance of an individual lot effected by such easement. Within these easements, no structure, planting, or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may damage, interfere, or change the direction of flow of drainage facilities in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot or the Association, except for those improvements for which a public authority or utility company is responsible.

III

MEMBERSHIP

Section 1. Every person or entity who is a record owner of fee or undivided fee interest in any lot, portion of lot or any resubdivision thereof, subject by these

covenants to assessment by the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment by the Association. Ownership of such lot shall be the sole qualification for membership.

Section 2. Classes of Membership. The corporation shall have two classes of membership:

A. Class "A" members shall be all those owners as defined in Section 1 of this Article III with the exception of the Declarant. Class "A" members shall be entitled to one (1) vote for each lot in which they hold the interest required for membership by Section 1 of this Article III. When more than one (1) person holds such interest in any such lot, all such persons shall be members. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any lot.

B. The Class "B" member shall be the Declarant. The Class "B" member shall be entitled to three (3) votes for each lot in which it holds the interest required for membership by Section 1 of this Article III. Class "B" membership shall cease and be converted to Class "A" membership on the happening of either of the following events, whichever occurs earlier:

(1) When the total votes outstanding in the Class "A" membership equal the total votes outstanding in the Class "B" membership, or

(2) On December 31, 1975.

Section 3. Suspension of Membership. During any period in which a member shall be in default in the payment of any annual assessment or special assessment levied by the Association, the voting rights and right to use of the common area of such member may be suspended by the Board of Directors until such assessment has been paid. Such rights of a member may also be suspended, after notice and hearing, for a period not to exceed fifteen (15) days, for violation of any rules and regulations established by the Board of Directors governing the use of the common area and facilities.

IV

USE RESTRICTIONS

Section 1. The term "Residence Lot" as used in this Declaration shall be deemed to mean and shall mean and refer to an individual site for a residence together with the grounds in connection therewith (whether composed of one or more lots or portions or combinations thereof). No structure shall be erected, altered, placed or permitted to remain on any residence lot other than one detached single family dwelling and a private garage and other out-buildings incident to residential use of the lot provided, however, accommodations for caretakers and other individuals retained for care and preservation of the premises shall be permitted.

Section 2. Each residence lot shall be used as a residence for a single family and for no other purpose, except as provided in Article IV, Section 1 hereof.

Section 3. No structure shall be erected, altered, placed or permitted to remain on any residence lot other than one (1) detached single family dwelling and a private garage and other out-buildings incident to residential use of the said lot as provided in Article IV, Section 1 hereof, none of which said structures shall exceed two (2) stories in height.

Section 4. No garage larger than reasonable necessary to accommodate four (4) cars shall be erected, constructed or maintained on any residence lot, or any part thereof.

Section 5. Subject to any requirements or restrictions imposed pursuant to Article V, no structure shall be located on any residence lot nearer than ten feet (10') to the front street line or nearer than ten feet (10') to any side street line. No structure shall be located nearer than ten feet (10') to an interior lot line or in the event the present lot line is not the building lot line, then no structure shall be located nearer than ten feet (10') to the said building lot line. For the purposes of this covenant, eaves, fireplaces, steps, open porches, fences, walls, driveways and decorative appurtenances shall not be considered as a part of a structure; provided, however, that this shall not be construed to permit any portion of a structure on a residence lot to encroach upon another residential building lot and the height and location of fences shall be as elsewhere in this Declaration provided.

Section 6. Within the rear and side lines of all lots, a right-of-way five feet (5') in width is hereby provided for and is hereby reserved in all deeds to be hereafter delivered, except as hereinafter provided. In the event that a residence is constructed in such a position so that the present lot line is not the building lot line, said right-of-way shall be located five feet (5') in width within said building lot line, except as hereinafter provided. Said right-of-way may be used for the benefit of owners of lots in said subdivision for the purpose of installing and maintaining sanitary and storm sewers, gas and water pipelines and electric power and telephone lines and for the purpose of ingress and egress to and from public street and such public utilities and necessities. No structures are to be located over said five foot (5') strips of land other than eaves, steps, open porches, fences, walks, driveways and decorative appurtenances. In the event a residence is permitted to be located closer than five feet (5') to said rear and/or side lines, or said building lot lines pursuant to this Declaration, and a residence is so located, then and in that event said right-of-way shall cease and terminate as to the area covered by such residence and as to such area the prohibition against location of residences in this paragraph contained shall be null and void and without force or effect.

Section 7. It is intended that the provisions of Sections 5 and 6 above, providing for the creation of reserves and free space, be uniformly observed; provided, however, in the case of special circumstances the Declarant may, subject to the zoning laws to which said property may be subject, permit digression from the requirements for reserves and front yard and side yard and setback lines above established in Sections 5 and 6 relieve hardship or do equity when the same in the opinion of Declarant is warranted under the particular facts involved.

Section 8. No trade, business, commercial nor manufacturing enterprise, or activity shall be carried on or conducted upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

Section 9. No trailer, boat, temporary structure, basement, tent or shack erected in the tract shall at any time be used as a residence, temporarily or permanent, nor shall any structure of a temporary character be used as a residence, and no trailers, boats or recreational vehicles shall be parked on any lot in such a position that any

part of the same is visible from the street or any adjoining lot, or a portion thereof, within said tract.

Section 10. The floor area of the main structure on any residence lots, exclusive of open porches and garages, shall be not less than one thousand eight hundred (1,800) square feet.

Section 11. Any portion of a residence lot, the title to which lot has been transferred to an individual owner and which portion is not covered by cement walks, or other fixed improvements, or the structure thereon, and which portion is visible from the street, shall be kept free from rubbish, litter and debris.

Section 12. No fence, wall, hedge, trellis, or garden appurtenances of any type shall be erected, placed or maintained in the setback area between the dwelling and the front street property line of such residence lot or between the dwelling and any side street property line of such residence lot unless the design and plan for the same meet the approval of the Declarant or committee hereinafter provided, nor shall any fence, wall, hedge, trellis or garden appurtenances over six feet (6') in height (measured from the ground on which it stands) be erected, placed or maintained on any other portion of the residence lot, unless the design and plan for same meet the approval of the Declarant or committee hereafter provided, and not more than one (1) sign or any sign larger than eighteen inches by twenty-four inches (18" x 24") be erected, placed or maintained on any portion thereof.

Section 13. No animals, fowl, or birds may be kept or bred for commercial purposes provided, however, it is contemplated by the Declarant herein that because of the size and location of said lots animals, fowl and birds shall be permitted in reasonable numbers and of such types as not to cause annoyance or nuisance in the tract. An occasional breeding and sale of said animals, fowl and birds for personal enjoyment as a fancier shall not constitute a commercial purpose within the meaning of this Declaration.

Section 14. No structure shall be moved onto any lot unless it meets with the approval of the Declarant or the committee hereinafter referred to, or if there is then no committee, it shall conform to and be in harmony with existing structures in the tract.

Section 15. In the event that Declarant undertakes the work of constructing residential units and incidental improvements upon any of the lots included within said property, and in order that said work may be completed and said property be established as a fully occupied residential community as rapidly as possible, nothing in this Declaration shall be understood or construed to:

A. Prevent Declarant, or its contractors or subcontractors, from doing on said property or any part thereof, whatever is reasonably necessary or advisable in connection with the completion of said work; or

B. Prevent Declarant, or its representatives, from erecting, constructing and maintaining on any part or parts of said property owned or controlled by Declarant such structures as may be reasonably necessary for the conduct of its business of completing said work and establishing said property as a residential community and disposing of the same in parcels by sale, lease or otherwise; or

C. Prevent Declarant from conducting any part or parts of said property owned or controlled by Declarant, its business or completing said work and of establishing said property as a residential community and of disposing of said property in parcels by sale, lease, or otherwise; or

D. Prevent Declarant from maintaining such sign or signs on any of said lots owned or controlled by Declarant as may be necessary for the purposes set forth in this Section 15.

Section 16. No tree, shrub or growth of any nature or kind whatsoever shall be permitted to extend on any lot above a horizontal plain measured at the maximum elevation of the principal structure permitted by this Declaration regardless of the height of the actual structure constructed on such lot, provided, however, the Declarant shall have the right to permit specific exceptions if they deem it desirable to do so for the benefit of other lots in said property, or for the general benefit of said property. Declarant shall have the right at any time, and from time to time, at its own cost, to cut and remove any trees on any lots or other portions of the property, or remove or trim the branches of any trees, if they deem it desirable to do so for the benefit of any other lots in said property or for the general benefit of said property.

Section 17. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations, excavation or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

Section 18. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

V

ARCHITECTURAL CONTROL

Section 1. No building, outhouse, garage, fence, wall, retaining wall, or other structure of any kind shall be erected, constructed, placed or maintained on said property, or any part thereof, nor shall any alteration, addition, changing, repairing, remodeling, changing of color, or adding to the exterior thereof be made, unless prior to the commencement of any construction, excavation or other work, two (2) complete plans and specifications therefore, including front, side and rear elevations and floor plans for each floor and basement, and two (2) plot plans indicating and fixing the exact location of such structure, or such altered structure, on the residence lot with reference to the street and side lines thereof, shall have been first submitted in writing for approval and approved in writing by the Declarant or its duly appointed agent.

Approval of such plans, specifications and location of buildings by the Declarant or its duly appointed agent shall be endorsed on both sets of the said plans and specifications and one (1) set shall forthwith be returned by the Declarant to the person submitting the same to the Declarant and the other shall be retained by the Declarant in its permanent records.

The approval by Declarant of any plans or specifications submitted for approval as herein specified shall not be deemed to be a waiver by the Declarant of the right to object to any of the features or elements embodied in such plans or specifications if and when the same features or elements are embodied in any subsequent plans or specifications for approval for use on other lots.

After such plans and specifications and other data submitted have been approved by Declarant, no building, outhouse, garage, fence, wall, retaining wall, or other structure of any kind shall be erected, constructed, placed, altered, or maintained upon said property unless the same shall be erected, constructed or altered in conformity with the plans and specifications and plot plan theretofore approved by Declarant, or its duly appointed agent, as hereinabove provided in this section and subparagraphs hereof. If any building, outhouse, garage, fence, wall, retaining wall or other structure of any kind shall be erected, constructed, placed, altered or maintained upon said property, other than in accordance with the plans and specifications and plot plan thereof, approved by Declarant, such erection, construction, placing, alteration and maintenance shall be deemed to have been undertaken without the approval of the Declarant ever having been obtained as required by this Declaration.

Following the expiration of one (1) year from the date of completion of any structure or alteration shall be deemed to comply with all of the provisions of this section and subparagraphs hereof, unless notice to the contrary shall have been recorded in the Office of the County Recorder of Alameda County, or legal proceedings shall have been instituted to enforce such compliance.

In the event Declarant shall fail for a period of forty-five (45) days to approve or disapprove any plans, specifications or plot plans submitted to them for approval, the same shall be deemed to have been approved.

Any agent or officer of Declarant may at any reasonable time enter and inspect any building or property, subject to the jurisdiction of Declarant, that is under construction if such agent or officer believes that a violation of the covenants, restrictions, reservations, servitudes or easements is occurring or has occurred.

At such time as the record title to no part of said property or property abutting same shall vest in and be owned by any of Declarants herein, then and in such event all of the provisions for and rights to and enforcement of the foregoing provisions for the approval of plans, specifications and plot plans and tree trimming shall be vested either in said Association acting by and through a committee

composed of such of its members as may be specified by said Association, or in event said Association shall not then exist, then in a committee of three (3) property owners in the said property to be appointed by Declarant, in which latter event Declarant may from time to time appoint a new committee for such purposes and authority of the old committee and the members thereof shall thereupon cease and terminate.

Section 2. When the construction of any building on any lot is once begun, work thereon must be prosecuted diligently and it must be completed within a reasonable time. No building shall be occupied during construction or until made to comply with all requirements of said Declaration.

Section 3. In the event construction of the principal structure on any residence lot is not started within three (3) years from the date of recordation of the first conveyance of said residence lot from the Declarant herein, or, if started and is not continuously prosecuted to completion thereafter, Declarant reserves the right to repurchase the said lot at and for the purchase price agreed between the parties in said first conveyance, plus interest at the rate of six percent (6%) per annum from the date of said first conveyance. In the event Declarant exercises such reservation, the same shall be indicated by delivery in writing of a demand for such reconveyance to such purchaser or their successor in interest and Declarant shall forthwith deposit in a title company selected by Declarant said interest and purchase price in accordance with the formula set forth above, and the then holder of title shall convey title to Declarant or their nominee, free and clear of all liens and charges and other defects in title other than those existing upon date of said first conveyance, and all charges, costs and expenses in connection with said escrow transaction shall be prorated and determined as established in the escrow for the said first conveyance.

Section 4. No structures shall be located on any residence lot nearer than fifteen feet (15') to any area designated for Erosion Control Planting by cross-hatched marking on that certain map of said tract designated for Erosion Control Planting, a copy of which shall be recorded prior to the conveyance of any lot to any purchaser other than Declarant, unless special soil, structural and other engineering design and data shall be provided by the said owner to the Declarant and the City of Hayward for

any structure so to be located within said fifteen feet (15'), and prior written approval of said special design and data shall have been received by said owner from said Declarant and the City of Hayward.

Section 5. All buildings, outhouses, garages or other structures erected within said tract shall be so designated and constructed in order that all water flowing from the roofs thereon shall be directed to roof gutters and downspouts and thence to street gutters by use of the gutter openings provided for that purpose. In no event will roofs, downspouts or other openings be allowed to drain in any other manner without the prior written consent of the Declarant and the City of Hayward. Drainage plans shall be incorporated in and made a part of all building plans.

VI

CHARGES AND ASSESSMENTS

Section 1. The Declarant, for each lot, portion of a lot or any resubdivision thereof owned within the properties, hereby covenants, and each owner of any lot, portion of a lot or any resubdivision thereof, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed is deemed to covenant and agree to pay to the Association:

- A. Annual assessments or charges; and
- B. Special assessments for capital improvements, such assessments to be established and collected as hereinafter provided; and
- C. Annual dues and charges as may be provided by THE WOODLAND KNOLLS ASSOCIATION.

Said annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made.

Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety and welfare of the residents in the properties and for the improvement and maintenance of the common area, and of the homes situated upon the properties. The amount of the annual assessments shall include, and the Association shall acquire and pay from the annual assessment funds, the following:

A. to acquire by gift, purchase or otherwise to own, hold, enjoy, lease, operate, maintain, and to convey, sell, lease, transfer, mortgage or otherwise encumber, dedicate for public use or otherwise dispose of real or personal property in connection with the business of the Association; and

B. to pay the taxes and assessments, if any, which may be levied by any governmental authority on ornamental or functional structures, owned by or subject to the control of the Association, and on any property of the Association, or which may be held in trust for the Association; and

C. to enforce the covenants, restrictions, reservations, servitudes, easements, liens and charges existing upon and created for the benefit of said property over which the Association has jurisdiction, to pay all expenses incidental thereto, to enforce the decisions and rulings of said property, to pay all of the expenses incidental thereto, to enforce the decisions and rulings of said property, to pay all of the expenses in connection therewith; and

D. to collect the charges affecting said property, to pay all expenses in connection therewith and all office, accounting, management and other expenses incident to the conduct of the business of the Association and all licenses, franchise taxes and governmental charges levied or imposed against the property of the Association; and

E. to erect, construct, light, improve, equip, operate, supervise and maintain private streets and roadways, storm sewers, street lights, recreational and landscaped areas and all slope control areas, and lighting facilities associated herewith; and

F. to pay for liability insurance insuring the Association and owners and their tenants, invitees, contract purchasers and agents against any liability to

the public or to any other owner, their invitees or tenants, incident to their occupation or use of the common area in a combined personal injury and property damage coverage of liability of not less than \$500,000 for each occurrence. The limits and coverage shall be reviewed at least annually and increased in the discretion of the Association; and

G. to pay for Workmen's Compensation Insurance to the extent necessary to comply with any applicable laws, and any other insurance deemed necessary by the Board of Directors of the Association; and

H. standard fidelity bond covering all members of the Board of Directors of the Association and all other employees of the Association in the minimum sum of \$2,000 or in such greater amounts as the Board of Directors may determine from time to time; and

I. to pay for any other materials, supplies, furniture, labor, services, maintenance, repairs, alterations, insurance, taxes or assessments which the Association is required to secure or pay for, pursuant to the terms of these Restrictions or by law or which in the opinion of the Association's Board of Directors shall be necessary or proper for the operation of the common area, or for the benefit of the lot owners, or for the enforcement of these Restrictions.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first lot to an owner, the maximum annual assessment shall be One Hundred Fifty-Five Dollars (\$155.00) per lot.

A. The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. The Association may reduce or increase such annual charge in any year.

Section 5. Any increases or reduction in said annual charge shall be determined and fixed by the Association during December of each year for the ensuing calendar year, as the needs of said property may, in its judgment, require.

Section 6. The right to collect and enforce the collection of such charges is hereby vested in the Association. Such charges shall be paid annually in advance

to the Association at its office in Hayward, California on the fifth (5th) day of January in each and every year during the continuance of this Declaration.

Section 7. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the common area, including fixtures and personal property related thereto, provided that any such assessment shall have the vote or written assent of fifty-one percent (51%) of each class of members.

Section 8. Both annual and special assessments must be fixed at a uniform rate for all lots and may be collected on a monthly basis or other basis as determined by the Board of Directors.

Section 9. The Association shall have a separate lien, and a separate lien is hereby created in favor of the Association upon each lot in said property to secure the payment of each annual charge which shall, during the continuance of such annual charges, become payable with respect to such lot. The priority of all such liens on each lot shall be in inverse order, so that upon the foreclosure of the lien for any particular year's charge on any particular lot any sale of such lot pursuant to such foreclosure will be made subject to all liens securing the respective annual charges on such lot for succeeding years. Each such lien for any particular year's charge shall likewise secure interest thereon if the same be not paid when due, and shall likewise secure costs of suit and reasonable attorney's fees to be fixed by the Court in the event any action is brought to collect such charges.

Section 10. The first annual charge shall commence as to all lots on the first day of the month following the conveyance of the first lot to an owner other than the Declarant. Each annual charge shall, if not paid within thirty (30) days after its due date, thereafter bear interest at the rate of six percent (6%) per annum until paid, but the Association may, in its discretion, waive any interest in any particular instance or instances. If any suit or action be brought to collect any such charge, then there shall be added to the amount thereof costs of suit and reasonable attorney's fees to be fixed by the court and included in any judgment in such suit or action.

Section 11. Declarant and each purchaser of any part of said property hereby waive as to each annual charge for a period of ten (10) years from after the due date of such annual charge all Statute of Limitations, and agree that any action or suit for the collection of any such annual charge, or for the foreclosure of the lien securing the payment of such annual charges may be brought and prosecuted to judgment at any time within ten (10) years after the due date of such annual charge.

Section 12. The purchasers of portions of said property by the acceptance of deeds therefore whether from Declarant or subsequent owners of such property or by signing contracts or agreements to purchase the same, shall become personally obligated and agree to pay such charges upon the portion, or portions, of said property owned by them or agreed to be purchased by them, costs of suit and reasonable attorney's fees as above provided, and shall thereby vest in the Association the right and power to bring all actions for the collection of such charges, costs of suit and attorney's fees and for the enforcement of such liens. Such right and power shall continue in the Association, and such obligations shall run with the land, so that the successive owner or owners of record of any portion of said property and the purchaser or purchasers under any contract or agreement for the purchase thereof shall in turn become liable to pay all such charges which shall become a lien thereon during the time that they may be the owner or purchaser of any portion of said property, or which were a lien against such portion of said property or which were a lien against such portion at the time they become the owner or purchaser of such portion, costs of suit and reasonable attorney's fees as above provided. After an owner or purchaser under a contract or agreement of purchase of any portion of said property shall transfer of record the real property owned by him, or assign of record his right under a contract or agreement of purchase, he shall not be liable for any charges thereafter to accrue against such portion of said property.

Section 13. Declarant agrees to pay to the Association the aforesaid charges, upon each portion of said property owned by it, which is subject to such charges, on the same basis as said charges are paid by other lot owners in said property on lots in the same locality, but only until such portion of said property is sold and conveyed of record to a new owner.

Section 14. The Association shall be required to perform only such of the foregoing enumerated purposes as it shall, from time to time, deem to be the best interests of said property and the owners thereof, and then only to the extent of the monies available for such purposes. Neither the Association nor Declarant shall in any way be liable to any owner, purchaser, or other person for any act or omission under this clause.

Section 15. In the event any city, county, district or other municipality or quasi-municipality, should at any time assume and perform with respect to the real property covered by this Declaration any of the services which are within the purposes of the Association, then during any period in which such services are assumed and performed by any such city, county, district or other municipality or quasi-municipality, the Association shall not apply any of said charges for the purpose of duplicating such services.

VII

DURATION AND SCOPE OF LIENS AND DURATION AND SCOPE OF CHARGES

Section 1. All of the liens and charges set forth in this Declaration are imposed upon said property for the direct benefit thereof, and of the owners thereof, as a part of the general plan of development, improvement, building, equipment and maintenance of said property. Each grantee or purchaser under a contract of sale or agreement of purchase, accepts the same subject to all the liens and charges set forth in this Declaration and agrees to be bound by each such lien and charge.

Section 2. Said liens and charges shall run with the land and continue to be in full force and effect, except as hereinafter provided, until the first day of January, 1999.

Section 3. Said liens and charges, as in force on said first day of January, 1999, shall be continued automatically and without further notice from that time for a period of twenty-five (25) years and thereafter for successive periods of twenty-five (25) years each, without limitation, unless within six (6) months prior to January 1, 1999, or within six (6) months prior to the expiration of any successive twenty-five (25) year period thereafter, a written agreement executed by the then record owners of lots in the property then subject to this Declaration having fifty percent (50%) of the total number of lots then subject to this Declaration shall be placed on record

in the Office of the County Recorder of the County of Alameda, California, in which agreement any of the liens or charges may be changed, modified, waived or extinguished in whole or in part as to all or any part of the property then subject thereto in the manner and to the extent therein provided.

Section 4. In the event that any such written agreement or change or modification be fully executed and recorded, the original liens and charges therein modified shall continue in force for successive periods of twenty-five (25) years each, unless and until further changed, modified or extinguished, in the manner herein provided.

VIII

CANCELLATION AND ANNULMENT OF CHARGES

Section 1. The owners of record of lots in the properties subject to this Declaration having seventy-five percent (75%) of the lot owners in each class of membership then subject to this Declaration, may amend, modify, cancel and annul with respect to the property then subject to this Declaration all or any of the liens and charges contained in this Declaration, by an instrument in writing by said owners, which shall be acknowledged by them so as to entitle it to record, and be recorded in the Office of the County Recorder of Alameda County, California.

IX

SUBORDINATION OF LIENS AND CHARGES

Section 1. All of the liens and charges set forth in this Declaration shall be subject to and subordinate to any recorded mortgage or deed of trust in good faith and for value at any time heretofore or hereafter executed covering any part of said property, and the breach of any such liens or charges shall not defeat the lien or encumbrance of any mortgage or deed of trust, and in case of entry the title shall remain subject to such mortgage or deed of trust, provided, however, that except as hereinafter in this Article IX provided, the purchaser at any foreclosure sale under any such mortgage or deed of trust and at any trustee's sale under any such deed of trust, his or its successors and assigns shall take and thereafter hold the title subject to all of the liens and charges set forth in this Declaration; provided further that if title to any of the property described in Section 1 hereof which is now, or at any time

hereafter, subject to a mortgage or deed of trust in favor of any bank or lending institution, shall be acquired by said bank or lending institution pursuant to any foreclosure sale or trustee's sale under any such mortgage or deed of trust, then and in that event said bank or lending institution shall take title thereto, free and clear of all delinquent charges and liens provided for in Article VI hereof. No sale or transfer shall relieve any lot, portion of a lot or any resubdivision thereof, from liability from said liens and charges thereafter becoming due or from the lien thereof.

X

GENERAL PROVISIONS

Section 1. Each and every deed of conveyance and/or executory contract of sale to or for any residence lot or lots by whomsoever executed shall be subject to each and every one of the terms and provisions of this Declaration and the grantee and/or purchaser thereunder shall be bound by each and every one of the terms and provisions of this Declaration.

Section 2. No breach of any of the conditions, restrictions and charges herein contained shall defeat or affect the lien of any mortgage or deed of trust made in good faith and for value upon any one or more lots or residential building lots and the improvements erected thereon, but the same shall be binding upon and shall be part of the estate acquired by anyone acquiring title under or through any such mortgage or deed of trust.

Section 3. All of the covenants and restrictions set forth in this Declaration are imposed upon all the lots for the benefit of all the lots and are designed to constitute a uniform and common plan for the use and development of the tract in order that these lots may retain their character as residential building lots of large size and may preserve their value and orderly appearance.

Section 4. Any and all rights and powers and reservations of the Declarant herein contained may be deeded, conveyed or assigned to the Association, and upon such Association evidencing its consent in writing to accept such assignment and to assure such duties and powers, it shall to the extent of such deed, conveyance or assignment, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Declarant herein and thereupon Declarant shall be relieved

of the performance of any further duty or obligations hereunder to the extent of such deed, conveyance or assignment.

In the event Declarant should convey all of its rights, title and interest in and to the real property described herein and should assign all of its rights, powers and privileges under this Declaration to another corporation and such other corporation should, by instrument in writing duly executed, acknowledged and recorded in the Office of the County Recorder of Alameda County, accept such conveyance and assume and agree to be bound by each and all of the obligations and duties hereby imposed upon the Declarant, then in such event Declarant shall be relieved of the performance of any further duty or obligations hereunder, and such other corporation shall succeed to all of the rights, powers, reservations, obligations and duties as though such other corporation had originally been named herein as Declarant instead of Declarant.

Section 5. The provisions contained in this Declaration shall bind and inure to the benefit of and be enforceable by the Declarant, the Association, or by the owner or owners of any portion of said property, their legal representatives, heirs, successors or assigns, and failure by Declarant, the Association, or by any other property owners, or their legal representatives, heirs, successors or assigns, to enforce any of such liens or charges herein contained shall, in no event, be deemed a waiver of the right to do so thereafter, unless otherwise herein provided.

Section 6. In the event any clause, subdivision, term, provision or part of this Declaration should be adjudicated by final judgment of any court of competent jurisdiction to be invalid, or unenforceable, then disregarding the clause, subdivision, term, provision, or part of this Declaration so adjudicated to be invalid, or unenforceable, the remainder of this Declaration, and each and all of its terms and provisions not so adjudicated to be invalid or unenforceable, shall remain in full force and effect, and each and all of the clauses, subdivisions, terms, provisions or parts of this Declaration are hereby declared to be severable and independent of each other.

IN WITNESS WHEREOF, said Declarant has executed this instrument this 27th day of August, 1973, at Hayward, California.

FIRST RIDGEWOOD CO., a Partnership
ROYAL INVESTMENT CO., a Partner

By Oliver M. Rousseau
Oliver M. Rousseau, President

By George P. Oakes
George P. Oakes, a Partner

STATE OF CALIFORNIA) ss
COUNTY OF ALAMEDA)

On this 27th day of August, 1973, before me, Christina M. Wade, Notary Public, in and for said County and State, personally appeared OLIVER M. ROUSSEAU, known to me to be the President of ROVAL INVESTMENT CO., the corporation that executed the within instrument, on behalf of said corporation, said corporation being known to me to be the general partner of FIRST RIDGEWOOD CO., the Partnership that executed the within instrument and acknowledged to me that such corporation executed the same as such partner and that such partnership executed the same.




Christina M. Wade, Notary Public
In and for County of Alameda,
State of California

STATE OF CALIFORNIA) ss
COUNTY OF ALAMEDA)

On this 27th day of August, 1973, before me, Christina M. Wade, a Notary Public, State of California, duly commissioned and sworn, personally appeared GEORGE P. OAKES, known to me to be one of the partners of the partnership that executed the within instrument, and acknowledged to me that such partnership executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, in the County of Alameda, the day and year in this certificate first above written.




Christina M. Wade, Notary Public
In and for County of Alameda,
State of California

**ELECTION RULES
WOODLAND KNOLLS ASSOCIATION**

The following election rules are adopted to comply with the requirements of the Davis-Stirling Act and to provide for fair elections, subject to all applicable and enforceable: (a) provisions of law, and (b) Articles of Incorporation, CC&Rs, and Bylaws.

I. MEMBERSHIP MEETINGS

A. Meetings of the Membership.

1. **Annual Meetings.** There shall be an annual meeting each year on the same day of the same month of each year, at the hour of eight o'clock p.m. (8:00 p.m.). If the day of the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

2. **Special Meetings.** Special meetings may be called at any time by any of the following: (i) president of the board, (ii) majority of the board, or (iii) members who are entitled to vote constituting at least twenty-five percent (25%) of the voting power of the association, or as required by law. If a special meeting is called by members of the association, the request shall be submitted to the board in writing.

B. Notice of Membership Meetings.

1. **Notice by Secretary.** Written notice of all meetings of the members shall be given by, or at the direction of the Secretary or person authorized to call the meeting.

2. **Notice Period.** All notices shall be sent not less than fifteen (15) days before the date of the meeting.

3. **Notice Contents.** The notice shall specify the place, date, and hour of the meeting and in the case of a special meeting, the purpose of the meeting.

4. **Delivery.** Notice of any membership meeting shall be given by mail, charges prepaid, and addressed to each member: (i) at the address appearing on the books of the association, or (ii) at the address given by the member for the purpose of notice.

II. NOMINATIONS

A. Number of Directors.

The board shall consist of five (5) directors. At the first annual meeting the members shall elect three (3) directors for a term of one (1) year, two (2) directors for a period of two (2) years and at each meeting thereafter the members shall elect directors for two (2) year terms.

B. Qualifications.

Directors need not be members of the Association.

C. Nominations.

Any qualified person may nominate himself or herself for election to the board of directors by submitting to the association a written statement signed and dated by the person nominating himself or herself. The self-nomination statement must be received by the association prior to the close of nominations.

III. CAMPAIGNING

A. Access to Media.

1. **No Use of Association Resources.** The association's newsletter, website, bulletin board, or other association media may not be used for campaign purposes.

2. **Exception.** If any candidate or member is provided access to association newsletters, website, bulletin board or other association media during an election, for purposes that are reasonably related to that election, equal access shall be provided to all candidates and members. The access shall be limited to information relating to that election, and shall include those candidates and members not endorsed by the board. The association shall not edit or redact any content from these communications, but may include a statement specifying that the candidate or member, and not the association, is responsible for that content. The association and its directors, officers, and agents, shall be immune from liability for the content of those communications to the fullest extent provided by law.

B. Use of Common Area During Election Campaign.

1. **No Cost for Use.** During an election campaign, each candidate and each member advocating a point of view reasonably related to the election shall be allowed to use, if available, the association's common area at no cost to the member or candidate.

2. **Reservation.** Each candidate or member who wants to use the common area pursuant to this rule must make a reservation in advance of the date and time requested. Candidates' and members' requests to use the common area shall be granted on a first-come, first-served basis, provided that the area is not already reserved. In order to assure fairness, each candidate may not reserve or use the common area for more than two (2) hours on any particular date. In addition, each candidate and each member shall only be allowed to make one (1) reservation per day to use the common area.

C. No Use of Association Funds for Campaign Purposes.

Association funds may not be used for campaign purposes in connection with any board election and may not be used for campaign purposes in connection with any other association election except to the extent necessary to comply with duties of the association imposed by law. The association shall not include the photograph or prominently feature the name of any candidate on a communication from the association or its board, excepting the ballot and ballot materials, within thirty (30) days of an election. This restriction does not preclude directors from advocating the election or defeat of any issue or candidate on the ballot. However, they may not use association funds to do so.

IV. INSPECTORS OF ELECTION

A. Selection.

Prior to the date ballots are first sent out, the board of directors shall, at an open meeting of the board, select either one (1) or three (3) persons as Inspectors of Election. The board may select any of the following:

1. **Poll Worker.** A volunteer poll worker with the County Registrar of Voters,
2. **Accountant.** A licensee of the California Board of Accountancy, including any such licensee under contract to the association,
3. **Notary.** A notary public,
4. **Recording Secretary.** A recording secretary, including any such recording secretary under contract to the association,
5. **Management Company Representative.** Representatives of any management company, including any such management company under contract to the association,
6. **Association Members.** Members of the association, but not: (i) members of the board, (ii) candidates for the board, (iii) persons related to a member of the board, or (iv) persons related to a candidate for the board,
7. **Person or Entity Under Contract to the Association.** A person, business entity, or subdivision of a business entity who is currently employed or under contract to the association for any compensable services.

B. Duties.

Duties of Inspectors of Election shall include the following:

1. **Membership.** Determine the number of memberships entitled to vote and the voting power of each.

2. **Validity.** Determine the authenticity, validity and effect of proxies, if any.
3. **Closing of Polls.** Determine when the polls shall close consistent with the governing documents.
4. **Receive Ballots.** Receive all ballots. Once a secret ballot has been received by an Inspector of Election, it shall be irrevocable.
5. **Custody.** Maintain custody of the sealed ballots at all times. The sealed ballots at all times shall be in the custody of the inspector or inspectors of election or at a location designated by the inspector or inspectors until after the tabulation of the vote and until the time allowed by Section 7527 of the Corporations Code for challenging the election has expired, at which time custody shall be transferred to the association. No person, including a member of the association or an employee of the management company, shall open or otherwise review any ballot prior to the time and place at which the ballots are counted and tabulated. The inspector of election or his or her designee may verify the member's information and signature on the outer envelope prior to the meeting at which ballots are tabulated.
6. **Challenges.** Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote. If there is a recount or other challenge to the election process, the inspector or inspectors of election shall make the ballots available for inspection and review upon written request. An association member may authorize a representative to review the ballots on his or her behalf. Any recount shall be conducted in a manner that preserves the confidentiality of the vote.
7. **Counting.** Count and tabulate all votes. All votes shall be counted and tabulated by an Inspector of Election or his or her designee in public at a properly noticed open meeting of the board of directors or members. Any candidate or other member of the association may witness the counting and tabulation of the votes.
8. **Appoint Assistants.** Appoint and oversee additional independent third parties to verify signatures, and to count and tabulate votes as the inspectors of election deem appropriate provided that such persons are independent third parties.
9. **Results.** Determine the tabulated results of the election.
10. **Impartiality.** Perform their duties impartially, in good faith, to the best of their ability, and as expeditiously as is practical. Any report made by the Inspectors of Election is prima facie evidence of the facts stated in the report.
11. **Miscellaneous.** Perform any acts as may be proper to conduct the election with fairness to all members in accordance with Civil Code section 1363.03, the Corporations Code, the association's governing documents, and all applicable rules of the

association regarding the conduct of the election that are not in conflict with Civil Code section 1363.03.

V. BALLOTS AND PROXIES

A. Voting Rights.

1. **Number of Votes.** Members in good standing shall be entitled to one (1) vote on each matter submitted for a vote of the members.
2. **Cumulative Voting.** Cumulative voting is required.
3. **Co-Owners.** Where there is more than one (1) owner of a property ("co-owner") subject to the association's CC&Rs, all such co-owners shall be members and may attend any meeting of the association, but the vote for such co-owners shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any lot.
4. **Voting for Candidates Properly Nominated.** Members must vote only for those candidate(s) who have been properly nominated prior to the close of nominations.

B. Proxies.

1. **Proxies.** The association may use and accept proxies as permitted by law and the association's governing documents, provided that the association shall not be required to prepare or distribute proxies. Proxies shall not be construed or used in lieu of a ballot at a meeting.
2. **Proxy Form.** Any instruction given in a proxy issued for an election that directs the manner in which the proxy holder is to cast the vote shall be set forth on a separate page of the proxy that can be detached and given to the proxy holder to retain. Proxies must meet all requirements of Chapter 4 of Article 2 of the Davis-Stirling Act, other laws, and the association's governing documents.
3. **Vote by Proxy Holder.** The proxy holder shall cast the member's vote by secret ballot unless the proxy is revoked by the member prior to the receipt of the ballot by an inspector of election as described in Section 7613 of the Corporations Code.

C. Ballots.

1. **Non Revocable.** Once a secret ballot has been received by an Inspector of Election, it shall be irrevocable.
2. **Secret Ballot.** All items legally requiring a vote of the membership shall be held by secret ballot, including but not limited to assessments, selection and removal of

members of the association's board of directors, amendments to the governing documents, or the grant of exclusive use of common area property.

a. **No Signature.** The ballot should be filled out, but not signed by the voter.

b. **Inner Envelope.** After the unsigned ballot is filled out, it must be inserted into an inner envelope which is then sealed. This sealed inner envelope must be inserted into a second envelope, which is also sealed.

c. **Second Envelope.** In the upper left hand corner of this second envelope, the voter must sign his or her name, indicate his or her name, and indicate the address or separate interest identifier that entitles him or her to vote. The second envelope must be addressed to the Inspector of Election who will be tallying the votes.

d. **Delivery.** The envelope may be mailed to the address on the envelope or delivered by hand to a location specified by the Inspectors of Election. The member may request a receipt for delivery.

3. **Quorum by Ballot.** Each ballot received by an Inspector of Election shall be treated as a member present at a meeting for purposes of establishing a quorum.

4. **Ballot Delivery to Members.** Ballots and two (2) preaddressed envelopes with instructions on how to return ballots shall be mailed by first-class mail or delivered by the association to every member not less than thirty (30) days prior to the deadline for voting. In order to preserve voter confidentiality, a voter may not be identified by name, address, or lot, parcel or unit number on the ballot.

5. **Ballot Markings.** A ballot which contains any of the following symbols shall be counted and tabulated as if said symbol was the number "1": an "x", a checkmark, or any non-numerical symbolic designation indicating the voter's intent to vote for any particular candidate, issue or ballot measure. A ballot shall not be invalidated solely due to the inclusion of a signature thereon.

VI. MEETING PROCEDURES

A. **Chair of Meeting.** The president of the board shall call the membership meeting to order and shall chair the meeting unless a majority of the board selects another person to chair the meeting.

B. **Quorum.** The quorum requirement for membership meetings is one-half (1/2) of the voting power of the association entitled to cast a vote represented in person or by proxy.

C. **Lack of Quorum.** In the absence of a quorum, no business may be transacted except to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented.

D. Counting Ballots. The Inspectors of Election, or his or her designee, shall count and tabulate all ballots in public at a properly noticed open meeting of the board of directors or members. No person, including a member of the association or an employee of the management company, shall open or otherwise review any ballot prior to the time and place at which the ballots are counted and tabulated. Any candidate or other member of the association may witness the counting and tabulation of the votes.

VII. POST-ELECTION RESULTS

A. Results of the Election. The results of the election shall be announced immediately after all the ballots have been counted. Within fifteen (15) days of the election, the board shall publicize the results of the election in a communication directed to all members.

B. Status of the Ballots after Election. The sealed ballots at all times shall be in the custody of the inspector or inspectors of election or at a location designated by the inspector or inspectors until after the tabulation of the vote and until the time allowed by Section 7527 of the Corporations Code for challenging the election has expired, at which time custody shall be transferred to the association. After the transfer of the ballots to the association, the ballots shall be stored by the association in a secure place for no less than one (1) year after the date of the election.

Woodland Knolls
Official Vote Count
May 22, 2007

Certification

I certify that ballots were received and maintained in a sealed state until the date of this opening. That said ballots have been under my control from date of receipt and that no one has had access to the sealed ballots.

Said ballots were opened at a properly called and noticed meeting of the Woodland Knolls Board of Directors which was held on the above date at 26637 Durham Way, Hayward., CA 94542.

Total Possible Votes: 17

Total Votes Received: 17

Total Votes in Favor: 12

Total Votes Opposed: 5

Total Votes Abstained: 0

Per Section 10 of the Woodland Knolls HOA By-Laws, a quorum is defined as 50% of the homeowners. In that over 9 homeowners cast their ballot, the quorum requirement has been met.

I certify that the total number of ballots in favor exceed the total number against. Further, I have attached a copy of all ballots received.

Date: 5/02/07.

Michelle Louie
Michelle Louie

Woodland Knolls
Official Vote Count
May 22, 2007

Home Owners
In Attendance

Signatures

Shahram & Aleta Azimi

Shahram & Aleta Azimi

Glen & Robin Cartwright

Robert & Henny Chapnick

Jarn & Katharine Chun

Mary Shiells

Dave & Yvonne Gehring

Man Soon & Alice Kim

Paul & Michelle Louie

Michelle Louie
Bill & Shirley Maier

Bill & Shirley Maier

Marshall & Felie Mitzman

Marshall & Felie Mitzman

Dee Odell

Gary & Judy Ong

Gary & Judy Ong

John & Gay Ostarello

Adjie & Mely Retodo

Edmund & Georgina Teyrovsky

Edmund Teyrovsky

Thomas & Angie Tomanek

Ronald Allen & Michelle Smith

Michelle Smith

SEP 23 2007

PLANNING DIVISION

TO: Woodland Knolls Homeowners Association Membership

FROM: Bud and Debbie Eckert
3884 Oakes Drive

SUBJECT: OPPOSITION TO THE PROPOSED GATE ADJACENT TO OUR
PROPERTY

DATE: 2/3/07

Contrary to what was erroneously reported to you during your recent Homeowner's Association meeting, my wife and I are in fact adamantly opposed to the construction/operation of any type of gate which would be placed adjacent to our property. We are so opposed to this proposed gate that we intend to take all appropriate actions to prevent the construction/operation of the proposed gate. I have never had any type of conversation with Mr. Allen regarding the proposed gate and in fact have never met Mr. Allen to the best of my memory. I have had conversations with Mr. Cartwright and have steadfastly informed him that we are adamantly apposed to the construction of any type of gate adjacent to our property.

The construction of a gate adjacent to our property line would adversely affect our tranquility as well as our property value. I am certain that if the situation was reversed you would be in opposition to the gate just as much as we are.

We have always attempted to be good neighbors. We certainly hope and pray that you are of the same mind.

Jim DeLuz

From: sara quintero [porkster89@sbcglobal.net]
Sent: Saturday, September 22, 2007 1:41 PM
To: Jim DeLuz
Subject: PL-2007-0463 SPR

Good afternoon

We received the green postcard providing official notice that the City of Hayward has received a request to install a security gate across Durham Way.

We strongly object to this proposal. I am a homeowner on Oakes Drive and I feel that my community's comfort level will be sacrificed for the sole satisfaction of some of the Woodland Knolls residents.

First of all, the Woodland Knolls residents have stated that they want a security gate so that their property values stay high. They have provided no solid facts supporting that a security gate will guarantee high property values. On the contrary, the housing market in general will dictate whether or not their property values rise or fall. Their neighborhood is NOT in jeopardy of becoming a blighted neighborhood like neighborhoods in the flat lands of Hayward. Good quality schools will also dictate property values in Hayward. If the schools were better rated, more people would want to live and work in Hayward, hence a higher economy and higher values in our homes. A security gate is not the answer for higher property values.

They have also stated that they want a gate to prevent crime. First of all, I don't think the crime rate at Woodland Knolls is high. A great community is what stops crime, not a gate. Neighbors watching out for neighbors is what helps a community stay crime free. Neighborhood alerts help stop crime, not a gate. Most crime occurs away from the home and not in the home. Most crime in the home is caused by the people within the home.

A security gate is not going to guarantee that their homes are not burglarized even though the burglaries in that neighborhood are and have been very low.

Putting a gate up comes at the expense of others.

Parking is a big problem for the residents of Woodland Knolls. Their own association does not allow them to park on their private streets. Residents/Tenants have had to park on Oakes Drive because Woodland Knolls does not allow them to park within their own association. A security gate will only make this worse. This causes the homeowners on Oakes Drive to come home and not be able to find parking for themselves. At times, the cars will be parked on Oakes Drive for days on end which again, prevents us from parking on our street.

Noise will also be an issue. The vehicles will have to remain at the corner while the gate opens and closes. Some of the vehicles from Woodland Knolls are diesel powered SUV's and they make a lot of noise, especially when idling. Oakes Drive residents will be subjected to noise from the gate, noise from the cars idling.

Another expense comes at the expense of the general public, school children, boy scouts, girl scouts, kids riding bikes and other associations. These neighborhoods are surrounded by some of Hayward's

most beautiful PARKS AND REC nature trails. As a homeowner, I enjoy watching the field trip children walk across the trails learning about nature and exercising. A great fear is that once the gate comes up, these groups will no longer have access to the trails.

It is unjust to be subjected to noise, parking issues, limited use of nature trails because an influential homeowners association wishes to enclose themselves from the rest of Hayward. If the association really feels they need to enclose themselves from the rest of Hayward, let them do that higher up their hill, behind the nature trails and away from the Oakes Drive corner. This would be the best comprise.

Please let us know if and when there will be hearings on this matter and consider us as interested parties.

Sincerely,
Sara Quintero
Lee Wilhight
3876 Oakes Drive
Hayward, CA 94542
(510) 888-1571

Jim DeLuz

From: Sharon Wu [sharonwu97@sbcglobal.net]
Sent: Sunday, September 23, 2007 4:10 PM
To: Jim DeLuz
Subject: PL-2007-0463 SPR

Mr. James V. DeLuz,

Thank you for informing the request of installing a security gate across Durham Way in Hayward. My husband and I strongly oppose this idea because it will negatively impact the real estate of houses in this area, giving people the impressions of unsafe neighborhood, making the access to the public trails difficult if not possible and may invite other similar actions to follow.

Please don't allow such application.

Sincerely,

Wilson and Sharon Qi
3909 Oakes Drive
Hayward, CA 9452

RECEIVED

OCT 01 2007

PLANNING DIVISION

26655 Durham Way
Hayward, CA 94542
25 September 2007

Mr. James V. DeLuz, Assistant Planner
Planning Division
777 "B" Street
Hayward, CA 94541

Dear Mr. DeLuz:

We would like to comment on the proposed security gate across Durham Way, Hayward, Ca. (Reference: PL-2007-0463 SPR).

We are strongly opposed to the construction of this gate. We have lived on Durham Way for 29 years. We chose to build our home and raise our family in this neighborhood because we liked the surroundings and the proximity to the city of Hayward. We have always seen ourselves as being part of the community. A security gate across Durham Way will be a visual and physical barrier that separates us from our friends and neighbors. It will be divisive rather than welcoming. Thirty percent of the homeowners on Durham Way voted against the proposed gate.

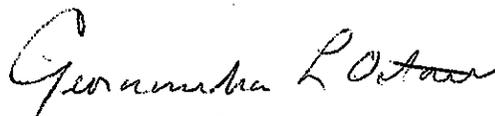
While the proponents cite security as the prime reason for wanting a gate, it is unlikely this gate will have much impact. The addition of a gate will not stop anyone who really wishes to enter. They can walk or bicycle through the pedestrian access provided at the gate itself; they can come up the HARD trails that terminate on Durham Way; they can drive in by following another car through the gate. We are neither a fenced nor walled community, so gaining access will not be difficult. Durham Way has been a relatively safe street. There have been a few problems, but with some diligence by homeowners, problems can be minimized or eliminated. A gate will not create a secure street. In fact, it will give the impression that this is an unsafe neighborhood, which is far from reality.

We are opposed to the construction of this gate, and we urge the Planning Division not to approve the application.

Sincerely,



John Ostarello



Georgiandra L. Ostarello

RECEIVED

OCT 01 2007

PLANNING DIVISION

26596 Durham Way
Hayward, CA 94542
25 September 2007

Mr. James V. DeLuz, Assistant Planner
Planning Division
777 "B" Street
Hayward, CA 94541

Dear Mr. DeLuz:

Thank you for allowing comments on the proposal for a security gate across Durham Way, Hayward, Ca. (Reference: PL-2007-0463 SPR)

I am against the proposal. I fail to see how a gate would provide homeowners with any security.

Durham Way is a private road with two narrow lanes. There is a turn around at the northern end. Our home, built thirty-one years ago, parallels the turn around. During these years there have been very few security problems; our home was burglarized twenty-five years ago, but there have been no problems since then.

Signs are posted at the entrance to Durham Way and at the turn around stating the private status of the road. Occasionally cars park in this area, but have done no harm.

A gate would keep cars from entering Durham Way, but anyone with mischief in mind can enter as a pedestrian from Oakes Dr., the HARD trail, or up the surrounding canyons. Woodland Knolls is not fenced at all.

A gate would be inconvenient for emergency vehicles, fire engines, police cars and ambulances when time is of the essence for the wellbeing of the homeowners on Durham Way. Other services - postal deliveries, newspaper deliveries, service trucks, delivery trucks, waste management vehicles - will be inconvenienced as well.

Again, I am against the gate because the questionable security it provides is far outweighed by the inconvenience it causes. I do not believe that a gate constructed primarily for the illusion of grandeur or elitism is in keeping with my neighborhood.

Sincerely,



Delores Odell

RECEIVED
SEP 21 2007
PLANNING DIVISION

Mr James V. DeLuz
Planning Division
777 B Street
Hayward CA 94541

Dear Mr. DeLuz:

In regard to the proposed security gate at Durham Way and Oakes Drive, we wish to voice our objections to this project. Since pedestrian and equestrian access must be provided, this gate will not insure the security that normally would exist.

We have been residents of Woodland Knolls for over 27 years and have enjoyed the ambience of the area, serenity, magnificent views, and enviable location of ease to both major freeways. Our daily egress would be hampered by a gate, not to mention the financial cost with the necessary maintenance fees and inconvenience during problem periods.

Please hear our voices; we urge the Planning Division not to approve the application.

Sincerely,

J. & K. Chun
26623 Durham Way
Hayward CA 94542

Jim DeLuz

From: bud eckert [budeckert@hotmail.com]
Sent: Wednesday, September 26, 2007 8:09 PM
To: Jim DeLuz
Subject: Proposed Security Gate on Durham Way

We are opposed to the construction of a security gate on Durham Way in the strongest possible way. The construction of a security gate adjacent to our property will negatively impact our lives in many, many ways.

- **Environmental Issues**

- The construction of a security gate a short distance from our bedroom windows will destroy our peace and harmony. Lights associated with the proposed gate will shine in our bedroom windows. We will be beset with noise emanating from the gate opening and closing as well as traffic idling. One of our sons is a severe asthmatic. The construction of the gate will result in exhaust fumes permeating our household.
In addition to serious health and welfare issues, other environmental problems exist as well.
-
- The construction of the proposed gate will result in an increased number of cars parking on upper Oakes Drive. As an example, last summer renters residing on Durham Way were informed by their association that they could not park on Durham Way. This led to all available street parking places in front of our house as well as the homes of three neighbors being utilized by vehicles owned by the renters on Durham Way.
- An additional environmental concern has to do with safety. It is our recent understanding that the gate project includes an island with a roundabout for turning. It would not take much for a car making a u-turn on a narrow street to come crashing down into our bedroom.

-
- **Property Value**

- Every real estate agent/property broker we have contacted has informed us that the construction of a security gate adjacent to our property will have a devastating impact upon our property value. This dismal news makes sense in that who would want to buy a house adjacent to a large security gate having negative environmental impacts on said property.

- **Community Relations**

- When we initially agreed to sign a paper presented by Mr. Cartwright of the Woodland Knolls Homeowners Association we were guaranteed that the gate would not be constructed adjacent to our property. The proposed gate/island is scheduled to be constructed adjacent to our property despite verbal promises from Woodland Knolls representatives to the contrary. At the time we agreed to the notion of the gate we had no idea that no fewer than five families residing within Woodland Knolls were and are adamantly opposed to the construction of the gate. Had we known earlier of the feelings of these five families who are currently feeling desperate with reference to the proposed construction of the gate, we would never have agreed to the possibility of a gate in the first place.
-
- We wish to conclude by once again reiterating that we were totally misled regarding the proposed gate. We were verbally guaranteed that the gate would not be built adjacent to our property. We were never informed about any type of island or u-turn avenue. We were never informed that there would be street lights adjacent to our bedroom window. We were never informed that the paper we signed would result in the loss of our easement. We were never informed that a number of residents within Woodland Knolls were adamantly opposed to the construction of the gate due to philosophical as well as financial reasons.
- We look forward to a formal hearing during which countless Woodland Estate residents as well as Woodland Knoll residents will be given the opportunity to express opposition to the proposed gate.

Bud and Debbie Eckert
3884 Oakes Drive
Hayward, CA 94542

cc: Mayor Michael Sweeney

Connect to the next generation of MSN Messenger [Get it now!](#)

RECEIVED

SEP 28 2007

PLANNING DIVISION

Proposed Security Gate on Durham Way

From: bud eckert (budeckert@hotmail.com)

Sent: Thu 9/27/07 3:09 AM

To: jim.deluz@hayward-ca.gov

We are opposed to the construction of a security gate on Durham Way in the strongest possible way. The construction of a security gate adjacent to our property will negatively impact our lives in many, many ways.

- **Environmental Issues**
 - The construction of a security gate a short distance from our bedroom windows will destroy our peace and harmony. Lights associated with the proposed gate will shine in our bedroom windows. We will be beset with noise emanating from the gate opening and closing as well as traffic idling. One of our sons is a severe asthmatic. The construction of the gate will result in exhaust fumes permeating our household. In addition to serious health and welfare issues, other environmental problems exist as well.
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SEP 8 2007

PLANNING DIVISION

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- We look forward to a formal hearing during which countless Woodland Estate residents as well as Woodland Knoll residents will be given the opportunity to express opposition to the proposed gate.

Debbie Eckert

Bud Eckert

Bud and Debbie Eckert
3884 Oakes Drive
Hayward, CA 94542

cc: Mayor Michael Sweeney

3885 Oakes Drive
Hayward, CA 94542

September 29, 2007

RECEIVED

OCT 01 2007

PLANNING DIVISION

Mr. James V. DeLuz, Assistant Planner
Planning Division
777 "B" Street
Hayward, CA 94541

Re: PL-2007-0463 SPR
Glen Cartwright (Applicant)
Woodland Knolls H.O.A. (Owner)

Dear Mr. DeLuz,

Today, I read your Official Notice postmarked September 21, 2007, regarding the request to install a security gate across Durham Way, Hayward.

I have been out of town and returned home yesterday to find the Official Notice in a week's pile of mail, and see that a response is required by Monday, October 1, 2007. One week seems to be very short notice for such an important issue.

The Official Notice states "Decisions on the application may be made administratively." This important matter deserves the transparency of a hearing where all parties may face each other in person and discuss the pros and cons with civility, rather than waging a war of rhetoric and intimidation door to door. Gluing a 16-foot by 17" sign I'M A NAZI LOVER on the Eckert's fence is unspeakable! Although the sign has been removed, glue and residual paper are stuck to the fence. What did Bud Eckert do to deserve the defacing of two sections of his newly stained fence? He nailed two 18" x 30" signs STOP THE GATE and STOP ELITISM on his fence.

Please set a date for us to come down to City Hall and meet together face to face, simultaneously.

The Official Notice further states "The property is at the entrance to Durham Way, 130 feet from Oakes Drive" and the Area Map illustrates the location of the gate to be on the property line – the small scale is not clear but perhaps it is intended to show the gate entirely within the property – at the **Parcel Address: 26865 Durham Way**, for which City of Hayward Maps & GIS web page at <http://hayward-ca.gov/gis.shtm> shows **Owner: Felicidad & Mitzman Marshall Ulepmitzman**.

That information is inconsistent with my understanding from conversations with others of the actual plan for the gate and median strip that will divide the public portion of Durham Way to within some 50 feet, more or less, from Oakes Drive. One hundred thirty feet from Oakes Drive places the gate outside **Parcel Address: 26865 Durham Way** and therefore entirely on the public portion of Durham Way. These alleged facts are not disclosed in the Official Notice. Because this is a key element of the controversy surrounding the installation of the gate, public hearing for all parties to fully disclose, explain and discuss the facts is paramount – it is called transparency.

Please set a date for us to come down to City Hall and view actual plans that are not deceptive.

The drawing of the gate on the Official Notice indicates a scale $1/2" = 1'$ which is obviously wrong. The width of the street is approximately 40 feet, so the scale on the card is more like about $1"=12'$ or $1"=13'$ or possibly $1"=14'$. If this is the case, the detail of the fence adjacent to the gate extends only about 3 or 4 feet outside the curb from the street (assuming the support posts are near the curb line). It is not clear if this is an unintentional omission of additional apparatus and construction to allow hikers, cyclist and horses access to the H.A.R.D. trail, or if access is allowed to any vehicle, including motorcycles and other small motorized vehicles which are prohibited.

Motorcycles and other small motorized vehicles are periodically driven illegally on the H.A.R.D. trails that surround Woodland Estates Community Association (WECA). Motorized vehicles are prohibited because they pose a fire danger to the residents on Oakes Drive as well as all of the side streets. All residents of WECA have a vested interest in restricting access to the H.A.R.D. trails to horse- and foot-traffic.

It is my understanding that the Official Notice has not been distributed to residents of Aberdeen Place, Roxbury Lane, Halifax Place, Pelham Place, Grasmere Place, Clairborne Court, Chatham Court, Cromwell Place, Abbingdon Place, Lancaster Road, Warwick Place, Carisbrook Court, and Lancaster Court who have an equally vital interest in the design of the gate to prohibit illegal entrance by motorized vehicles while allowing public access to H.A.R.D. trails. We need to understand that the gate and fence design will enhance our safety. My property is at the top of the canyon where any wildfire would intensify to its maximum as winds generated by the blaze channeled up the canyon would create a firestorm – my neighbors and I have the most to lose, but others in WECA should be at least given the basic facts that impact on their safety, as well.

Please set a date for us to come down to City Hall, and notify every resident of WECA.

My interest in the proposed gate also stems from the fact that my personal access to my own property will bear the greatest negative impact from the gate's installation forcing parking from Durham Way onto Oakes Drive in front of my home.

The Eckerts across the street (3884 Oakes Drive which is the corner house) have essentially no frontage suitable for parking cars. The driveway and fire hydrant restrict 100% of the frontage on Oakes Drive. There is a 10-foot section of curb between the two driveways of the corner house (3884 Oakes Drive) and the house to the west (3876 Oakes Drive). I don't know of many cars that could squeeze into that spot. I have never seen a car parked there other than a friend's Honda Civic, and only momentarily. The residents of 3876 Oakes Drive usually have one or two cars parked in front of their house. My frontage will be the only public parking. Restricting parking on Durham Way as a result of installing a gate and median strip will exacerbate the problem.

Cyclists who use the H.A.R.D. trail park their cars in front of my home, restricting my access to tend to the vegetation along approximately 80 feet of my property's frontage on Oakes Drive, and often restrict access to the walkway to my front entry. Access is needed by me as well as by the letter carrier. Some who park here do not take that into consideration – they are inconsiderate.

One parked car is restrictive, but tolerable. Two cars are very restrictive, and three cars are intolerable. I need access to the strip between the fence and the curb to tend to the area. The WECA CC&Rs govern appearance, and they are enforced. It is required that weeds be pulled and that the property be kept in an attractive state. Fallen debris from the trees, dead and dry vegetation and litter left by the cyclists who park there must periodically be cleaned up. There have been many occasions when, to tend to the area, I have had to walk on my plants, decorative rocks, in and around the trees and shrubs because a line of cars restricted my access.

Recently, cars were parked every night and every weekend for weeks on end when their owners rented rooms from a homeowner on Durham Way, compounding the issue. The renters numbered 3 or 4 (possibly 5) and were not allowed to park on Durham Way. Their driveway was full with 2 or 3 cars, and the road is too narrow to provide on-street parking with sufficient room for two lanes for traffic. The spillover of cars came to Oakes Drive where two cars parked in front of my house and one across the street where there are already resident's cars parked along the street. Oakes Drive already looks like a car lot thanks to decisions made by Durham Way residents.

Many visitors to the residents at 3901 Oakes Drive and cyclists also park on both sides of the public portion of Durham Way near Oakes Drive where Durham Way is wide enough to provide a safe margin for two lanes of traffic. With an alleged median strip leading up to the gate, there will be insufficient space for parking on the public portion of Durham Way.

When residents at 3901 Oakes Drive host parties (which is routinely about every other week) the visiting cars are parked in front of my property as well as on both sides of Oakes Drive east of the Durham Way intersection. That presents a dangerously narrow space for cars approaching the intersection coming down the hill from the east (from Fairview Avenue). The westbound lane of Oakes Drive is only 12 feet wide as it approaches Durham Way from Fairview Avenue, and it widens to only 15 feet in front of the property at 3909 Oakes Drive. That is where visitors begin parking their cars. The westbound lane continues to widen to 19 feet at the Durham Way intersection stop line. The approach to the intersection is simply not conducive for traffic to pass a parked car safely without going over the double yellow centerline – but everybody does it.

Please set a date for us to come down to City Hall, to facilitate an integrated analysis and plan.

Sincerely,



Douglas Grandt

(510) 432-1452 cell

(510) 582-0788 home

(916) 324-0317 work (California Air Resources Board)

Encl.: City of Hayward Maps & GIS Aerial view of Durham Way and Oakes Drive intersection

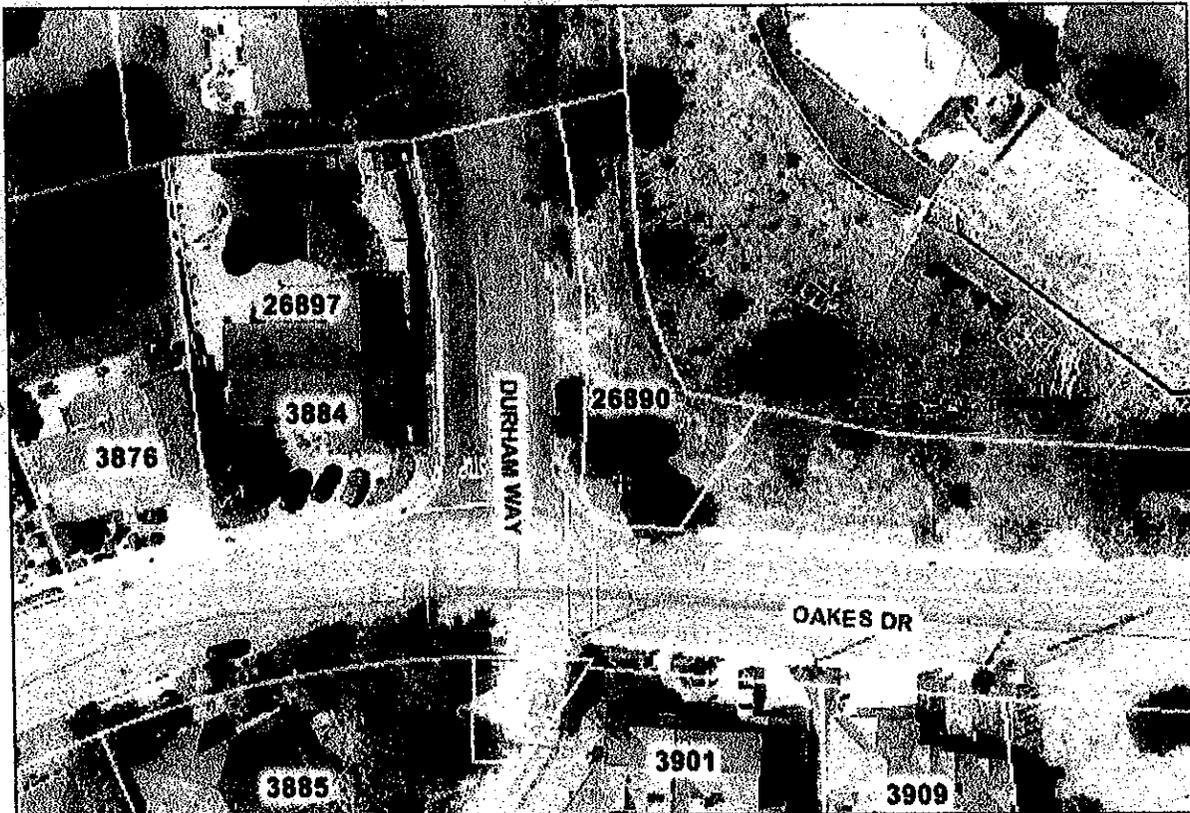
City of Hayward Maps & GIS

Aerial View of Durham Way and Oakes Drive Intersection



THE CITY OF
HAYWARD
THE HEART OF THE BAY

County Records



ZOOM IN



ZOOM OUT



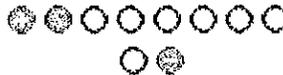
PAN



IDENTIFY



BIG MAP



ZOOM IN ZOOM OUT

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APPLICATION CREATED BY GIS PLANNING



RECEIVED

Date: September 29, 2007

OCT 01 2007

To: Mr. Deluz
City Of Hayward Planning Division

PLANNING DIVISION

Re: Woodland Knolls (Durham Way) Proposed Gate Project

Our names are Robert and Henny Chapnick, home owners on Durham Way, Woodland Knolls for over twenty three years.

The Gate Project has created division, conflicts, disharmony and a hostile atmosphere among Woodland Knolls homeowners, and between Woodland Knolls and Woodland Estates. The gate will cut off the bond and the cohesiveness that exists within our community and between the two communities.

Mr. and Mrs. Bud Eckert are residents of Woodland Estates who live on the corner of Oaks and Durham. A number of years ago, they generously granted Woodland Knolls an easement allowing for the construction of a security gate on a portion of Durham Way owned by them. They expected that the easement only covered a simple gate and some wires to support its operation. The Gate Project now contemplates an island, sign, sprinkler system, intercom and vehicle turn-around in close proximity to their bedroom window.

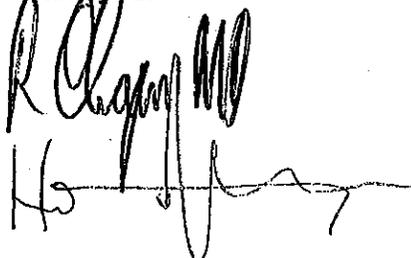
The Eckerts are rightfully concerned about noise, traffic and dirt interrupting the quiet enjoyment of their home, as well as a significant decrease in the value of their property. They believe the project was misrepresented to them, and that the easement they granted does not allow for the project as now planned. They have advised Woodland Knolls that they are contemplating legal action should the Gate Project come to fruition.

Just today, we discovered that some of the gate's proponents may be attempting to get in the way of Woodland Knolls residents who are personally protesting the Gate Project and supporting a petition to the Hayward City government. The United States Constitution grants individuals the right of free speech and the right to petition the government; we see the alleged actions of the gate's proponents as interfering with these rights. We also found out that signs saying "Stop the Gate" and "Stop Elitism" were removed from the Eckert's fence and replaced by one stating "I'm a Nazi Lover." The police are investigating the incident.

We do not want to treat our neighbors and friends like this, simply for a small and unimportant project that has minimal value for the residents of Woodland Knolls.

We ask that the City of Hayward will value and inspire integrity, community, harmony and unity in Hayward and not approve the Gate Project.

Thank you.

Handwritten signatures of Robert and Henny Chapnick. The first signature is in dark ink and appears to be 'R. Chapnick'. The second signature is in lighter ink and appears to be 'H. Chapnick'.

Jim DeLuz

From: Douglas Grandt [doug.grandt@comcast.net]
Sent: Monday, October 01, 2007 8:19 AM
To: Jim DeLuz
Subject: PL-2007-0463 SPR (Durham Way Gate)



Durham Gate -
Grandt Letter to..

Jim,

Further to my email sent to you on Saturday, I am now sending you a letter I wrote to Bill Maier, President of the Woodland Knoll HOA.

Bill is a friend of mine who I have known and had many conversations since I moved to Oakes Drive in 1999.

I hand delivered the letter to him yesterday afternoon and we had a pleasant conversation. I specifically suggested to Bill that getting all parties around a table to review the plans and discuss the issues together would go a long way to resolving the discord that has built to a crescendo over the weekend.

I explained to Bill that I have concerns that I would like to discuss, and seeing the actual plan drawings might alleviate my concerns. You will find a list of my concerns at the bottom of the second page. The location of the gate and the design of the median strip are central those issues.

I look forward to meeting you, if that is possible, when I deliver a hard copy of this letter to you today.

Is there a convenient time that I would be able to meet you briefly?

Doug Grandt
3885 Oakes Drive
Hayward, CA
510-582-0788
510-432-1452 cell

PETITION OPPOSING SECURITY GATE ON DURHAM WAY

To: James V. DeLuz, Assistant Planner
 Planning Division
 777 "B" Street
 Hayward, CA 94541

RECEIVED

OCT 1 2007

From: Neighboring property owners and residents

PLANNING DIVISION

Re: Reference Number PL-2007-0463 SPR

We, the undersigned, are opposed to the installation of a security gate across Durham Way

- Such a gate will be divisive, isolating segments of the community from one another.
- A security gate will give the perception that the neighborhood is unsafe.
- Such a perception will decrease the property value of homes that are outside the gate on nearby streets.

NAME (print)	SIGNATURE	ADDRESS
1. Robert Sakai	<i>Robert Sakai</i>	21429 Chatham Ct Hayward, CA 94542
2. Sharon Qi	<i>Sharon Qi</i>	3909 Oakes Drive Hayward, CA 94542
3. Linda GRANDT	<i>Linda Grandt</i>	3885 Oakes Dr. Hayward, CA 94542
4. <i>Sally [unclear]</i>	<i>Sally [unclear]</i>	3867 Oakes Dr. Hayward, CA 94542
5. CARL CARTER	<i>Carl Carter</i>	3851 OAKES Drive Hayward CA 94542
6. Odessa C. Stappers	<i>Odessa C. Stappers</i>	3835 Oakes Dr. Hayward 94542
7. Douglas DeJge	<i>Douglas DeJge</i>	3879 OAKES Dr
8. CHARLES CARP	<i>Charles Carp</i>	3795 CARP TR
9. DIRK MORRISON	<i>Dirk Morrison</i>	26925 ABERDEEN PL HAYWARD, CA 94542
10. John Leys	<i>John Leys</i>	26933 Aberdeen Pl Hayward, CA 94542

PETITION OPPOSING SECURITY GATE ON DURHAM WAY

To: James V. DeLuz, Assistant Planner
 Planning Division
 777 "B" Street
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- A security gate will give the perception that the neighborhood is unsafe.
- Such a perception will decrease the property value of homes that are outside the gate on nearby streets.

NAME (print)	SIGNATURE	ADDRESS
1. <i>Marta Kulick</i>	<i>Marta Kulick</i>	26458 Aberdeen Pl
2. <i>Joan Di Regolo</i>	<i>Joan Di Regolo</i>	3731 Oakes Dr
3. <i>Maxine J. Stephan</i>	MAXINE J STEPHAN	3715 OAKES DR
4. <i>CINDY GUIDOTTI</i>	<i>Cindy Guidotti</i>	3691 OAKES DR
5. <i>JANET Di REGOLO</i>	<i>Janet Di Regolo</i>	3679 Oakes Dr.
6. <i>Belinda Sterling</i>	<i>Belinda Sterling</i>	3667 Oakes Dr.
7. <i>Vikki PENN</i>	<i>Vikki Penn</i>	3651 OAKES DR.
8. <i>ANGELA LAWRENCE</i>	<i>Angela Lawrence</i>	26909 ABERDEEN PL.
9. <i>Norma S. Rees</i>	<i>Norma S. Rees</i>	3700 Oakes Dr.
10. <i>Joann Mariani</i>	<i>Joann Mariani</i>	3836 Oakes Dr.

PETITION OPPOSING SECURITY GATE ON DURHAM WAY

To: James V. DeLuz, Assistant Planner
 Planning Division
 777 "B" Street
 Hayward, CA 94541

RECEIVED

OCT 1 2007

From: Neighboring property owners and residents

PLANNING DIVISION

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- Such a perception will decrease the property value of homes that are outside the gate on nearby streets.

NAME (print)	SIGNATURE	ADDRESS
1. BACHMANN PAUL	<i>Paul Bach</i>	3780 OAKES Hayward
2. Sara Quintero	<i>Sara Quintero</i>	3876 Oakes Dr Hayward
3. Margaret Houghton	<i>Margaret Houghton</i>	3860 Oakes Dr, Hay.
4. Marlene Brooks	<i>Marlene Brooks</i>	3479 OAKES Dr, Hayward
5. Barbara Harrison	<i>Barbara Harrison</i>	3447 Oakes Dr Hayward
6. Jackie Moses	<i>Jackie Moses</i>	3476 Oakes Dr Hayward
7. Betty R. Dotson	<i>Betty R. Dotson</i>	3739 Oakes Drive Hayward
8. Nadia Haddad	<i>Nadia Haddad</i>	3716 Oakes Dr. Hay.
9.		
10.		

PETITION OPPOSING SECURITY GATE ON DURHAM WAY

To: James V. DeLuz, Assistant Planner
 Planning Division
 777 "B" Street
 Hayward, CA 94541

RECEIVED

OCT 1 2007

From: Neighboring property owners and residents

PLANNING DIVISION

Re: Reference Number PL-2007-0463 SPR

We, the undersigned, are opposed to the installation of a security gate across Durham Way

- Such a gate will be divisive, isolating segments of the community from one another.
- A security gate will give the perception that the neighborhood is unsafe.
- Such a perception will decrease the property value of homes that are outside the gate on nearby streets.

NAME (print)	SIGNATURE	ADDRESS
1. CHRISTINE PETTY	<i>Christine Petty</i>	3660 Roxbury Lane 94542
2. Kathleen Lowenstein	<i>Kathleen Lowenstein</i>	26867 Pelham Place
3. Vernon Kam	<i>Vernon Kam</i>	26851 Pelham Pl
4. Dil Jacka	<i>Dil Jacka</i>	26868 Pelham Pl
5. Robert E. Perry	<i>Robert E. Perry</i>	26876 PELHAM
6. Michael O'Loughlin	<i>Michael O'Loughlin</i>	26884 Pelham Pl.
7. Aracno Lowenstein	<i>Aracno Lowenstein</i>	26867 Pelham Pl.
8. STEFANIE TAYLOR	<i>Stefanie Taylor</i>	26890 Pelham Place
9. LUCILLA McFERRON	<i>Lucilla McFerron</i>	26890 Pelham Pl.
10. MAX S. DENNIS	<i>Max S. Dennis</i>	26898 Pelham Pl.

PETITION OPPOSING SECURITY GATE ON DURHAM WAY

To: James V. DeLuz, Assistant Planner
 Planning Division
 777 "B" Street
 Hayward, CA 94541

RECEIVED

OCT 1 2007

From: Neighboring property owners and residents

PLANNING DIVISION

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NAME (print)	SIGNATURE	ADDRESS
1. MARIA SCALISE	<i>Maria Scalise</i>	3684 OAKES Dr.
2. PETER R. NUMANN	<i>Peter R. Numann</i>	3676 Oakes Dr.
3. CHARLENE L. COX	<i>Charlene L. Cox</i>	3660 Oakes Dr.
4. IDA COHN	<i>Ida Cohn</i>	3652 Oakes Dr.
5. MARCUS A. DASILVA	<i>Marcus A. da Silva</i>	3644 OAKES DRIVE
6. Nenita Canarday	<i>Nenita Canarday</i>	3901 Oakes Drive
7. Clifton Sessions	<i>Clifton Sessions</i>	3820 Oakes Drive
8. Joo Juric	<i>Joo Juric</i>	3636 Oakes Drive
9. Frido Earritsen	<i>Frido Earritsen</i>	3922 Picea Ct
10. April Martin	<i>April Martin</i>	34091 Oakes Drive

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NAME (print)	SIGNATURE	ADDRESS
1. Richard Espicha	RICHARD ESPICHA	3716 ROXBURY LN ^{Hayward}
2. Sally Caldwell	Sally Caldwell	26934 Halifax Pl, Hayward
3. Brian Reid	Brian Reid	26945 Halifax pl
4. Lee Willhight	Lee Willhight	3876 oakes Drive Hayward CA 94542
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NAME (print)	SIGNATURE	ADDRESS
1. KATHLEEN RATTO	<i>Kathleen Ratto</i>	2690 Oakes Drive Hayward, CA 94542
2. ELANA MARCHI	<i>Elana Marchi</i>	3715 Roxbury 94542
3. DENNIS POLLARD	<i>Dennis Pollard</i>	3707 ROXBURY 94542
4. GABRIEL CROTTI	<i>Gabriel Crotti</i>	3699 ROXBURY 94542
5. Yvonne	<i>Yvonne</i>	3683 Roxbury Lane
6. THOMAS McNAUGHAN	<i>Thomas McNaughan</i>	36912 GRASMERE PL 94542
7. Keith Jomby	<i>Keith E. Jomby</i>	26920 GRASMERE PL 94542
8. Lynda Greubek	<i>Lynda Greubek</i>	26903 GRASMERE PL 94542
9. Donald Stabile	<i>Donald Stabile</i>	3644 Roxbury Rd 94542
10. LINA FRANCO	<i>Lina Franco</i>	3652 Roxbury Ln 94542

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OCT 1 2007

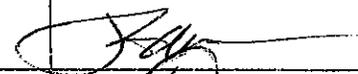
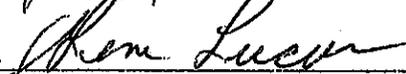
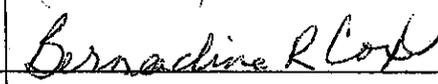
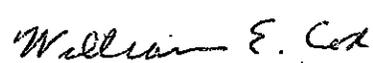
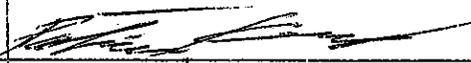
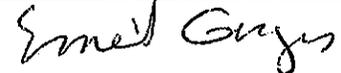
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NAME (print)	SIGNATURE	ADDRESS
1. Bud & Debbie Lake		3884 Oakes Dr.
2. Cleo Dunn		3828 Oakes Dr.
3. James Torrey		3828 Oakes Dr.
4. Brian Cole		26936 Aberdeen Pl
5. Gene Lucas		26965 ABERDEEN
6. Debra + Gary		3763 Oakes Dr.
7. Bernadine R Cox		3756 Oakes Dr.
8. WILLIAM E. COX		3756 OAKES DR
9. Patrick & Kathleen Kennedy		3752 Oakes Dr.
10. EMEL E GERGES		3702 OAKES Dr.

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NAME (print)	SIGNATURE	ADDRESS
1. Jewell Spalding	<i>Jewell Spalding</i>	27647 Fairview Ave Hayward CA 94542
2. BRONJA M. N. WOLSTEN	<i>[Signature]</i>	26929 HAWAIIAN PLACE HAYWARD, CA 94542
3.		
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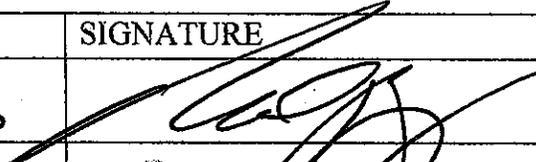
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NAME (print)	SIGNATURE	ADDRESS
1. Michael J. Izzo		26912 Huron St.
2. Nicholas Izzo		20928 Wallox Place
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Hello Mr. Mayor and Mr. City Attorney

I am writing to you both because yesterday my neighbor on Oakes Drive was a victim of what may be considered a hate crime. Someone or some persons created a life size computerized sign and posted it to their fence in the middle of the night. The life size sign read "I'm a Nazi lover". It is clear that this was not a joke being played nor teenagers with nothing else better to do. This crime was clearly committed by adults with a specific intent in mind. The Citizens on Oakes Drive want this fully investigated.

To give you some background on the situation here. There is a dispute that has brewed. The dispute is over a proposed security gate that the Woodland Knolls Association is trying to get pushed through on the corner of Oakes Drive and Durham.

Back in 1995 the Woodland Knolls Association approached a homeowner on Oakes Drive by the name of Bud Eckert. They approached him by inquiring whether or not he would mind if their association would put up a gate. Back in 1995, the Woodland Knolls Association was being governed by other members and the mentioned gate was going to be an insignificant gate (at least that was what was portrayed at the time). The gate issue did not quickly get off the ground and had been thought to be a dormant issue by the residents on Oakes Drive. However, the residents of Oakes Drive were mistaken.

In 1996 the Woodland Knolls Association met with the Superintendent of Parks, Larry Lepore. It also appears that the Woodland Knolls Association may have also met with Tim Koonze, Development Services Division. The goal was to get the gate installed and also to close the then public road, Durham Road.

The Woodland Knolls Association is a membership of 17 Homeowners. Obviously these homeowners are quite influential because somehow on November 1, 2004 they managed to get the City of Hayward to "vacate" the public land the City owned on Durham. This land is now maintained by the 17 homeowners in the Woodland Knolls Association.

Mr. Eckert, Homeowner on Oakes Drive, signed a Grant of Private Street Easement December 2004. This grants the Woodland Knolls Homeowners Association an easement for a private street and roadway for the purpose of vehicular and pedestrian ingress and egress.

Since then, Mr. Bud Eckert has realized that what was communicated to him back in 1995 is not what is now proposed. Mr. Eckert has vocalized as well as communicated in writing his opposition of the new proposal.

There have been many changes in the community since 1995. Most recently, the Woodland Knolls Association has been harassing their own tenants/residents. They indicate that they prohibit the parking of cars on their streets. This has caused the residents/tenants of Woodland Knolls Association to park their multiple cars on Oakes Drive. As you can see, this causes a chain reaction. We on homeowners on Oakes Drive have found it difficult to park our vehicles because of the Woodland Knolls overflow of cars.

Also, since 1995 there are many more residents sharing the Hayward Hills (and for the most part, sharing all of Hayward). More houses and more houses are being added. This brings in more people on the trails (which is a great thing) but also brings in the need for more open roads and parking for these people.

On September 21, 2007 the City of Hayward issued the green postcard providing official notice that the City of Hayward has received a request to install a security gate across Durham Way. This caused some of the Woodland Knolls residents who opposed the gate to talk to the Oakes Drive residents. It was determined that the official notice (the green postcard) did not get sent to vary many people. In fact, about a hand-full of residents on Oakes Drive received this notice. This caused the residents to begin an informative campaign.

On Tuesday September 25 and Wednesday September 26, 2007 residents began door knocking and circulating a petition of opposition to the gate. Mr. Bud Eckert also had put up a couple of cardboard signs asking to "stop the gate". Just days later, someone or some people attempted to get even.

On Friday September 28, 2007 just a couple days later after the petition circulation, Mr. Eckert's fence was vandalized with the "I'm a Nazi lover" life size computerized poster. Of course, this vandalized stepped over the boundaries of freedom of speech and is clearly a hate crime intended to intimidate the Eckerts.

Gate or no gate, this crime needs to be investigated and the persons need to be punished. These crimes should not be tolerated, regardless of whether or not you live in the Woodland Knolls homes or not.

Now, in respect the gate itself. We the citizens on Oakes Drive are asking for public hearings. It seems that most of the negotiations of "vacating public streets" for personal usage has gone behind closed doors. The vacating of the street has a huge impact on the public.

Our community's comfort level will be sacrificed for the sole satisfaction of some of the Woodland Knolls residents. Again, there are only 17 homes in this Association.

The Woodland Knolls residents have stated that they want a security gate so that their property values stay high. They have provided no solid facts supporting that a security gate will guarantee high property values. On the contrary, the housing market in general will dictate whether or not their property values rise or fall. Their neighborhood is NOT in jeopardy of becoming a blighted neighborhood like neighborhoods in the flat lands of Hayward. Good quality schools will also dictate property values in Hayward. If the schools were better rated, more people would want to live and work in Hayward, hence a higher economy and higher values in our homes. A security gate is not the answer for higher property values.

They have also stated that they want a gate to prevent crime. First of all, I don't think the crime rate at Woodland Knolls is high. A great community is what stops crime, not a gate. Neighbors watching out for neighbors is what helps a community stay crime free. Neighborhood alerts help stop crime, not a gate. Most crime occurs away from the home and not in the home. Most crime in the home is caused by the people within the home. A security gate is not going to guarantee that their homes are not burglarized even though the burglaries in that neighborhood are and have been very low.

Putting a gate up comes at the expense of others.

Parking is a big problem for the residents of Woodland Knolls. Their own association does not allow them to park on their private streets. Residents/Tenants have had to park on Oakes Drive because Woodland Knolls does not allow them to park within their own association. A security

gate will only make this worse. This causes the homeowners on Oakes Drive to come home and not be able to find parking for themselves. At times, the cars will be parked on Oakes Drive for days on end which again, prevents us from parking on our street.

Noise will also be an issue. The vehicles will have to remain at the corner while the gate opens and closes. Some of the vehicles from Woodland Knolls are diesel powered SUV's and they make a lot of noise, especially when idling. Oakes Drive residents will be subjected to noise from the gate, noise from the cars idling. .

Another expense comes at the expense of the general public, school children, boy scouts, girl scouts, kids riding bikes and other associations. These neighborhoods are surrounded by some of Hayward's most beautiful PARKS AND REC nature trails. As a homeowner, I enjoy watching the field trip children walk across the trails learning about nature and exercising. A great fear is that once the gate comes up, these groups will no longer have access to the trails. The trails are visited every weekend by bicyclists, joggers, school field trips, children's' groups similiar to the Scouts. Indicating that they might have a pedestrian walkway is not sufficient when you are talking about a large number of visitors.

Fire access is another concern. As you know, these hills are surrounded by woodlands, trees and dry grass. A security gate will only slow down the response time from our Fire Service personnel.

Delivery service personnel will also pose a problem. The homes in the Woodland Knolls for the most part have private gardeners, UPS, Mail Carrier services. These service personnel will be subjected to idle time at the gate while they wait for entry. The remedy would be to give every service provider a key to the gate, but then, that defeats the argument that they want security. A gate with keys going out to everyone is not really a security gate any longer.

It is unjust to be subjected to noise, parking issues, limited use of nature trails because an influential homeowners association wishes to enclose themselves from the rest of Hayward.

It is more unjust for the City to "vacate" a public street that gave the public access to public parks/trails. To vacate the land and to permit a security gate without public hearings is a tragedy.

And yet it is still more unjust for our neighbors to wake up to be victims of a hate crime and see such horrific signs posted on their fence.

We are hoping that the City of Hayward, Mr. Mayor and Mr. City Attorney can assist with these matters.

Sara Quintero
3876 Oakes Drive
Hayward, CA
94542
(510) 888-1571

Add emotion icons to your emails - for FREE!    [CLICK ME](#)

Eugene F. Lucas
26965 Aberdeen Place
Hayward, CA 94542
Direct Phone: 510-889-8250
Cell Phone: 510-303-9920
E-Mail: glucas16@sbcglobal.net

RECEIVED
OCT 11 2007
PLANNING DIVISION

October 9, 2007

James V. DeLuz
City of Hayward Planning Division
777 "B" Street
Hayward, CA 94541

Re: PL-2007-0463 SPR

Dear Mr. DeLuz:

It was recently brought to my attention by a neighbor that the City of Hayward is proposing to install a vehicle traffic gate on Durham Way close to Oakes Drive. I understand the Durham Way road is City owned, but maintained by the home owners along Durham Way.

My wife and I live on Aberdeen Palace, one block West of Durham Way. The rear of our property borders the Ward Creek Green Belt Trail. We frequently hike the Ward Creek portion of the trail and then use Durham Road to cross over to the North side of the Green Belt trail. Durham Road is the only public access to the trail at this end of the Green Belt therefore; provisions should be made in the design of the gate system to allow public foot traffic access to the trail.

I'm confident the City planners can resolve the trail access problem, but in my mind there is a larger issue to be reckoned with and that is "what gives a group of home owners the right to block off a City owned street because they think this will eliminate or minimize crime in their area?" If the planning commission accepts this thinking to justify blocking off public access to a certain neighborhood what stops other neighborhoods from demanding the same for their streets?

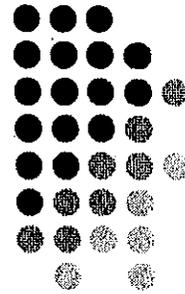
What an ugly situation this would present if one had to get authorization or have the correct gate code to pass through these gated neighborhoods. I'm sure the police and fire departments would just love it.

I believe, at the very least, there should be a public hearing before the City Planning Commission so that home owners in the area (other than just Durham Way home owners) can voice their opinion on the proposal.

Sincerely, one concerned home owner.

Eugene F. Lucas
Eugene F. Lucas

Woodland Knolls Homeowner's Association



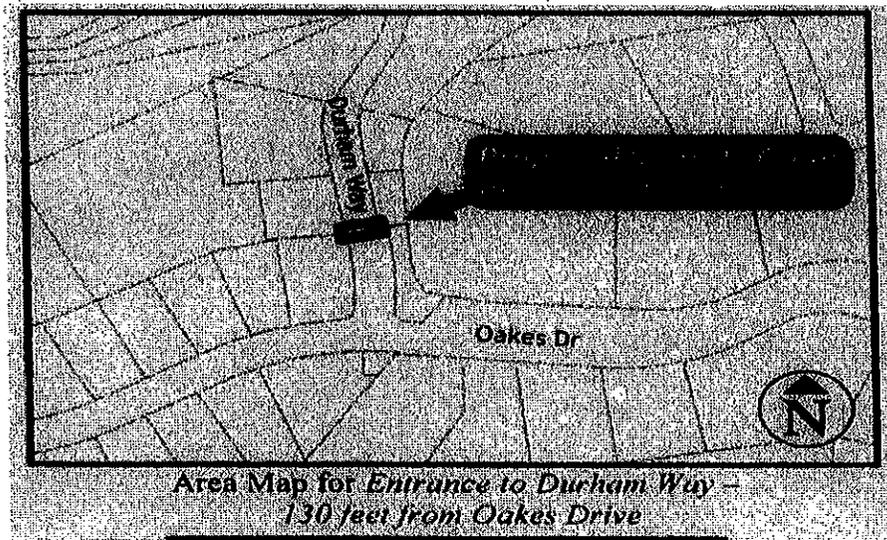
**Important Information
-Proposed Entry Gate-**

September 30, 2007

Mr. James V. DeLuz, Assistant Planner
Planning Division
777 "B" Street
Hayward, CA 94541
Re: PL-2007-0463 SPR

Dear Mr. DeLuz,

This letter and the accompanying materials are offered to further confirm the application of the Woodland Knolls Homeowners Association to construct a gate 130' north of the corner of Durham Way and Oaks Dr., across Durham Way (a private road). The below map was copied from the City notice sent to neighbors within 300 feet of the corner of Durham and Oaks.



The Board of Directors of the HOA thought it important to share our rational for making the request of the City.

The Woodland Knolls Association first met with the City in 1996 and began the long process to gain City approval to construct an entrance gate. Our primary goal in requesting approval for an entry gate was to increase the security to the homes and families of the Association. Over the 10 years since our initial discussions with the City, our Association has continued to encounter the following issues:

- Home burglary rate has increased.
- Vehicle vandalism rate has increased.
- Illegal late night parking has increased.
- Illegal dumping has increased.
- Pilfering of mail boxes has increased.

Durham Way is a private road, maintained by the homeowners, and is therefore not patrolled by the Hayward Police Department. We have spoken to the Hayward Crime Prevention Unit and have been advised by Lt. Keith Bryant that an entry gate would reduce the amount of indiscriminate traffic. A reduction in such traffic would have a positive impact on the security of homes and families.

Possibly a little different than your Association, our HOA fees are primarily used to maintain the roads. To cover the cost of constructing the proposed gate, each member of our association was assessed a special assessment of \$5,381.00. The assessment was approved by the homeowners by a majority vote. The overwhelming approval of the gate project, by the homeowners, was solidly reaffirmed by early payment of the special assessment.

Our association has become aware of efforts by some individuals to protest our efforts to provide security to our homes and families. We fully recognize their rights to voice their protest, however, we would be remiss in our duty if we did not offer facts and rational thinking as you consider our application. The following are the facts of our application:

Immediate Neighbor Impact

1. In a letter dated December 22, 1995, Mr. Bud Eckert, 3884 Oaks Drive, sent a letter to our association in which he stated that he had no objections to the installation of the proposed gate 100' north of Durham Way. The letter is attached for your review and consideration.
2. On December 13, 2004, Mr. Bud Eckert granted our association a Grant of Private Road Easement. It should be noted that the easement was specifically granted for the construction of the entrance gate. We have attached a copy for your review and consideration.

3. To ensure that the proposed entry gate would have the least possible impact to our neighbors to the south (across from Oaks & Durham) and west (at the corner of Oaks and Durham Way), the proposed site of the entry gate was moved an additional 30' deeper onto Durham Way. It should be noted that the site move was not a negotiation between our association and our neighbors, but strictly an act of one neighbor caring for another.

City Actions

4. On November 1, 2004, the City of Hayward, recognizing our long standing request to establish an entry gate, vacated the 130' section of Durham Way, thereby requiring our HOA to maintain all of Durham Way. A drawing of the vacated section is attached for your review and consideration.
5. As many of you know, who live on the north side of Oaks, there is a Hayward Area Recreation park (HARD) below your homes that can be entered on Durham Way and exited close to the corner of Oaks and Campus Dr. Consulting with Hard, our association gained their insight and advice on methods of maintaining access to the recreation area. Indeed the entry gate will allow for pedestrian access 24/7.

Neighbor Access

6. Our neighbors who walk and jog down Durham Way in the morning or evenings will not be negatively impacted by the proposed entry gate. Indeed, they may experience an even more enjoyable walk or jog with safety. We have attached a copy of the letter from HARD for your review and consideration. The recommendations of HARD are integrated in the gate project.

The Woodland Knolls Homeowners Association is comprised of 17 homeowners with homes tucked away from view thereby limiting Neighborhood Watch or Neighbor looking out for Neighbor opportunities available to our neighbors along Oaks Drive. Our goal in establishing the entry gate is to provide security for our homes, children and families.

As you consider our application, we trust that the facts will speak for themselves when weighed against the hyperbole and hysteria of individuals who are in no

way impacted by the establishment of an entry gate 130' deep on Durham Way, a private and dead end road.

Thank you for your consideration,

Ronald C. Allen
Michelle Smith
26637 Durham Way
Hayward, Ca 94542
(510) 583-7774

Please see Attachments:

Jim DeLuz

From: Tom Monaghan [TMonaghan@serrahs.com]

Sent: Tuesday, September 25, 2007 8:33 AM

To: Jim DeLuz

Subject: help

I would like to support the woodland estates drive to stop the gate at durham rd. access to that area is essential to the trail and a small gate would not be adequate. Closing off areas of public access sets a bad precedent. Please support us in this cause

Jim DeLuz

From: Michelle C. Louie [mclouie88@gmail.com]
Sent: Monday, September 24, 2007 6:12 PM
To: Jim DeLuz
Cc: Louie, Paul; luckymaier@aol.com
Subject: Security Gate Issue

To: Mr. James V. DeLuz
 Planning Division
 Hayward, CA 94541

Dear Sir,

We want to thank you for the notice we received regarding the installation of the security gate on Durham Way, 130 feet from Oakes Drive.

We moved to Durham Way on Dec 11, 1977, so as a long-time resident of this road for 30 years this coming Dec., we are compelled to write to you to comment on this very necessary and long-awaited security measure to safe-guard our small, private road.

Durham Way sits on a "dead-end street" high on the hills here above Hayward. As a result of the spectacular views from our road, in the 30 years we have lived here, we witness many un-invited cars, day and night, driving down or even speeding down this road for touristic purposes, many of which, especially late in the night, would park at the end of our road, sometimes for hours at a time, and leaving bottles, debris of an un-speakable sort, afterwards.

Among several security breaches, our house was also burglarized and broken into just earlier this year. Due to the "remote and secluded" nature of our surrounding, our back door on our deck was kicked in and broken into without anyone seeing it. The only deterrant that stopped these burglars was a bookcase sitting directly behind this door with more than a hundred books on it. We cannot imagine what would have happened if it were not for our bookcase ! As a result we had to purchase and install a new door, locks and door frame and repaint everything. The dead-bolt did not even do the job of stopping the burglars, the entire frame was damaged with the burglar's mightly force in their attempt of breaking in ! Needless to say, in a "secluded neighborhood" like ours, where one neighbor cannot see what lies beyond another neighbor's home, we are in dire need of more safety measures to safeguard our surroundings and ourselves.

I am a retiree who spends most of my days at home, with my 3 children grown and moved away and my husband at work most of the time. I get a number of unwanted visitors, vendors and door-to-door religious or sales solicitors almost daily ! It wil give us an immense sense of safety and peace of mind if there were a security gate to deter some of these unwanted visitors without them showing up at our front door. Besides, being able to get some restful and peaceful sleep at nights, due to the "remoteness" of our road and neighborhood.

This is a long-awaited security measure and the homeowners association vote was : 12 YES and 5 NO, meaning it was more than a "two and a half times one" in favor for the project. Believe me, that no one would want to spend the extra monies and time, and trouble of accessing through a gate, if the first and

foremost reason is SAFETY FOR OUR NEIGHBORHOOD !

We appreciate your prompt and expedited co-operation in this matter.
Afterall, we all want a safer road, more so because it is such a small and private road, and a safer neighborhood so as to enjoy more peace of mind.

We speak from our experience of having lived on this road for 30 years !

Your sincerely,
Michelle & Paul Louie
26677 DURHAM WAY
HAYWARD, CA 94542
Tel: 510-889-8888

cc William Maier
President, WK HOA

Douglas A. Grandt

3885 Oakes Drive
Hayward, CA 94542

September 30, 2007

Bill Maier
President
Woodland Knolls Homeowner's Association
26709 Durham Way
Hayward, CA 94542

RECEIVED

OCT 01 2007

PLANNING DIVISION

Re: PL-2007-0463 SPR
Glen Cartwright (Applicant)
Woodland Knolls H.O.A. (Owner)

Dear Bill,

This morning at about 9:00 AM, I found an envelope on my doormat addressed "To our Neighbor in Woodland Estates" with a return address "From you Neighbor - Woodland Knolls HOA" including a letter dated September 26, 2007. I noticed similar envelopes on the doormats of at least two other homes on the south side of Oakes, but no envelopes were visible on the north side of Oakes.

Sara, my across-the-street neighbor at 3876 Oakes (north side) was on the sidewalk watering her trees, so I asked her if she had received the letter. She had not. I explained to her that the envelope was not there when I came home at 11:00 PM last night, so it must have been delivered this morning.

As we were chatting, Michelle Smith walked by us and dropped of an envelope at the house to the east (3868 Oakes). Whether Michelle intentionally or unintentionally omitted Sara is not clear to me, but when Sara asked for a copy, Michelle gave her one. I suppose Michelle did not want to encounter us face-to-face, given the discord between certain members of our respective communities. Admittedly, I initially came across upset that Michelle had walked past us without acknowledging us and without dropping off the letter or even offering it to Sara. I apologized for being snappy, and Michelle continued distributing the envelopes on the north side of Oakes.

In our short conversation, I told Michelle that I was upset that the envelope was anonymous, having only "From your Neighbor", having no signature, author's name, or address. She countered that it was not anonymous. That was when I got snappy. I said I wanted to respond to whomever was the author and would like an address. When she gave me your name as being the president of the HOA, I was pleasantly surprised. I hope you will accept my comments as a friend and that we can get the "warring" factions of our two communities together in a civil discussion of the actual plans, and reach consensus of an acceptable plan for the gate.

The purpose of this letter is to let you know that I am in favor of the proposed gate at this time as I do not have sufficient information to make a judgment that the actual plan will not adversely affect me, but that I may not object to the gate if evidence shows it will not have negative impact.

However, I believe that there are sufficient discrepancies in information floating around the neighborhood to warrant an open meeting between interested parties in Woodland Estates and Woodland Knolls. I for one have several questions and would like factual documented answers.

The Official Notice states "Decisions on the application may be made administratively." This important matter deserves the transparency of a hearing where all parties may face each other in person and discuss the pros and cons with civility, rather than waging a war of rhetoric and intimidation door to door. I have requested Mr. DeLuz to set a date for us to come down to City Hall and meet face to face, all together, in the same room, at the same time.

Since this matter has apparently been an on-going effort since 1996, and your letter stated that one specific decision was "strictly an act of one neighbor caring for another" why has there been no personal or formal contact with me, and no public discussion about the plans and impact?

It is not too late. We can do it now – we can resolve the disagreements and lay out the facts.

Your letter states: "To ensure that the proposed entry gate would have the least possible impact to our neighbors to the south (across from Oakes & Durham) – that's me – and west (at the corner of Oaks and Durham Way), the proposed site of the entry gate was moved an additional 30' deeper onto Durham Way." As an expression of your "neighborly care" please share the plans with me.

I don't believe that all aspects of the gate and its impact have been considered carefully. From my understanding of the plans, I question the alleged lack of impact on me, my property, my neighbors and their property. For example, have the following been considered?

- Parking for H.A.R.D. cyclists and hikers as well as visitors to residents of Oak Knoll
- On-street parking shifting from Durham Way to Oakes Drive has not been addressed
- Noise of the gate operation and from idling vehicles at the gate have not been addressed
- Diesel particulate matter emissions while vehicles idle at the gate have not been addressed
- Turning around and egress of cars and trucks that enter Durham inadvertently
- Turning around of UPS, FedEx, DHL and other trucks when a resident is not home

Diesel particulate matter (PM) and oxides of nitrogen (NOx) emissions are a severe health issue.

Please request Mr. DeLuz to conduct a public hearing. It is in the best interest of all parties.

Sincerely,


Doug Grandt
(510) 432-1452 cell
(510) 582-0788 home

cc: Mr. James V. DeLuz, Assistant Planner, Planning Division,

Edmund & Georgina Teyrovsky

26563 DURHAM WAY
HAYWARD, CA 94542
Phone (510) 582-6545
Fax (510) 583-0562

RECEIVED

OCT 11 2007

PLANNING DIVISION

City of Hayward
Planning Division
777 B Street,
Hayward CA 94541-5007

RE: Propose Security Gate: Across Durham Way

October 4, 2007

Dear Mr. James V. DeLuz,

We have heard of some robberies and some attempted robberies. Few of them fairly recently. So we are 100% supporting the project of Durham Way gate. We will contribute our share of the cost. We hope that such gate could be installed as soon as possible.

Sincerely,

Edmund Teyrovsky
Edmund Teyrovsky

Georgina Teyrovsky
Georgina Teyrovsky



HAYWARD AREA RECREATION AND PARK DISTRICT

1099 'E' Street, Hayward, California 94541-5299 • Telephone (510) 881-6700 FAX (510) 888-5758

RECEIVED

OCT 31 2007

PLANNING DIVISION

October 26, 2007

Mr. James DeLuz
Assistant Planner
City of Hayward
777 B Street
Hayward, CA 94541

RE: Durham Way Gate

Dear Mr. DeLuz:

The Hayward Area Recreation and Park District (HARD) has been involved in the proposed gate installation at Durham Way. HARD staff has been working with representatives from Woodland Knolls, especially Dr. Marshall Mitzman. The main concerns, such as public trail access, horse access, and maintenance vehicle access have to be discussed and resolved to HARD standards. The latest drawings that have been reviewed are October 11, 2005.

Therefore, HARD approves of the plans, as submitted for the construction of the automatic entrance gate located on Durham Way near the intersection of Oakes Drive with the condition that HARD will be provided with remote key access.

If you have any others questions, please contact me at 510-881-6716 or by email at lepl@haywardrec.org.

Sincerely,

Larry Lepore
Superintendent of Parks

LL:jb

Cc: Dr. Marshall Mitzman

BOARD OF DIRECTORS

- Louis M. Andrade
- Minane Jameson
- Douglas F. Morrisson
- Carol A. Pereira
- Richard H. Sheridan

GENERAL MANAGER

Eric Willyerd

Jim DeLuz

From: RSakai538@aol.com
Sent: Thursday, April 10, 2008 9:38 AM
To: Jim DeLuz
Subject: Durham Way access gate

Jim: When I signed the petition opposing the proposed gate on Durham Way, I did not have all of the information necessary to make an informed decision. After reading your report dated 3-27-08 to the Planning Commission on this matter, I feel that the proponents of the project have made provisions for public access to the trail and to Durham during the day while providing security from unwelcome visitors. I also understand that the location of the gate has been moved away from the Eckert residence. I also spoke with a Durham Way resident who explained that their homes have been subject to more theft than the homes in Woodland Estates.

I therefore support the project.

ROBERT SAKAI
26429 CHATHAM CT
HAYWARD, CA 94542

Planning your summer road trip? Check out [AOL Travel Guides](#).

Council Member Hulteen commented that the Redevelopment Agency was created to make future changes of which the City through the Agency is responsible. He indicated that he has issues of concern and was not fully decided on the Lucky's project. He felt that this contract is helpful because some kind of redevelopment is needed.

Mayor Cooper closed the opportunity for public input at 8:52 p.m.

Council Member Rodriguez concurred with Council Member Hulteen's comments and agreed that the Victorians are important and should be preserved. She agreed with previous speakers that the public should be informed in all aspects of the process and felt that the public has been active in the past and assumed that it would continue.

Council Member Ward echoed the previous comments and recalled that the adopted Downtown Plan calls for a row of restored Victorian homes in that vicinity. He encouraged all interested citizens to participate in the public process as development is proposed.

It was moved by Redevelopment Agency/Council Member Ward, seconded by Redevelopment Agency/Council Member Henson, and unanimously carried by all present to adopt the following:

RA Resolution No. 97-001, "Resolution Authorizing the Executive Director to Execute an Agreement with Rust Associated Right of Way Services for Relocation Consulting Services for the Proposed Lucky Store Project"

HEARINGS

3. a. Site Plan Review Application No. 96-130-07 - Woodland Knolls Homeowners Association (Applicant/Owner) - Request to Install a Security Fence and an Automatic Gate Across Durham Way
- b. Referral from the Public Works Director - Vacation of the Public Portion of Durham Way - Vacate the Public Street Portion of Durham Way

Staff report submitted by Development Review Services Engineer Peck, dated February 11, 1997, was filed.

Development Review Services Engineer Peck responded to Council questions regarding alternatives to installing a gate to address noise issues, vandalism and traffic problems. Housing projects with gates were approved with the project whereas this project is somewhat unique in that the sixteen homes are further apart than other projects with gates. The homeowners association is the applicant, but the approval could be contingent on the written consent of the property owners. She noted that a telephone will be installed as well as provide access to public agencies by way of a key pad. She indicated that the gate designer was in attendance.

Council Member Hulteen cautioned that there could be a false sense of security with this gate installation. Should there be a policy established, he suggested police statistics be provided.

Council expressed concern for safety and security of its residents and the criteria for permitting "gated

communities." City Manager Armas reported that staff would be returning with a policy in this regard for Council consideration within six months.

Mayor Cooper opened the public hearing at 9:12 p.m.

Edmund Teyrovsky, 26563 Durham Way, spoke on behalf of the neighborhood association. He felt that the gate would decrease some of the police problems that occur in this area. He described the illegal youth activities that have occurred in the past. He noted the CC&R's for this development were approved in 1988, but that it requires two thirds approval by association members. The property owners desire to have an attractive gate that will be open all day and will be closed at sundown.

Bill Maier, 26709 Durham Way, Homeowner Association Board member, noted the difficulty in maintaining a Neighborhood Watch due to the distance of homes and the layouts.

Gary Ong, 26700 Durham Way, noted that the purpose of the gate is to prevent excess vehicular traffic and that a pedestrian could access at anytime. Durham Way is a narrow and private road and the residents hold responsibility for its maintenance. He reported that over 80% of the homeowners are in favor of the gate installation and will assume all costs.

Valerie Follett, 393 Dutchess Lane, sympathized with the homeowners, but was concerned with the trend of communities to "wall themselves off." She felt that divisiveness occurs with the walling off from the rest of the community.

Mayor Cooper closed the public hearing at 9:25 p.m.

It was moved by Council Member Henson, seconded by Council Member Ward, and unanimously carried by all present to adopt the following on the condition that there be an Homeowners Association resolution with written consent from a majority of the property owners.

Resolution 97-016, "Resolution Summarily Vacating a Portion of Durham Way and Authorizing Conveyance to the Woodland Knolls Homeowners Association"

Resolution 97-017, "Resolution Summarily Vacating Surplus Property Parcel No. 110 and Authorizing Conveyance to Woodland Knolls Homeowners Association"

Resolution 97-018, "Resolution Designating Vacated Portions of Durham Way as a Private Street"

Resolution 97-019, "Resolution Approving Site Plan Review Application No. 96-130-07 of Woodland Knolls Homeowners Association (Applicant/Owner)"

ORDINANCE NO. 98-07

AN ORDINANCE AMENDING CHAPTER 10 OF THE HAYWARD MUNICIPAL CODE BY THE ADDITION OF ARTICLE 14 THERETO, TO BE KNOWN AS THE SECURITY GATE ORDINANCE

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 10 of the Hayward Municipal Code is hereby amended by adopting a new Article 14, to be known as the Security Gate Ordinance, to read in full as follows:

"ARTICLE 14

"SECURITY GATE REGULATIONS

"SEC. 10-14.000 DEFINITIONS For the purpose of this Article, certain words are defined. Where it appears from the context of such words that a different meaning is intended, the definition shall be approved by the Planning Director.

- "(a) 'Security Gate.' The words 'security gate' shall mean a gate used to control vehicular access over driveways or private streets. The gate may be operated manually or by an electronically controlled device.
- "(b) 'Turnaround Stall.' The words 'turnaround stall' shall mean a parking stall that is located between the street right of way and gate/fencing, which is used to turn around and/or used as a temporary parking area where a visitor can contact an occupant within the complex to request entry.
- "(c) 'Visitor Parking.' The words 'visitor parking' shall mean residential off-street visitor parking that is required pursuant to Section 10-2.310 of the Off-Street Parking Regulations.

**"SEC. 10-14.100. GENERAL SECURITY GATE STANDARDS --
COMMERCIAL AND MULTI-FAMILY RESIDENTIAL ZONING DISTRICTS**

- "(a) The height and location of the gate shall conform to Section 10-1.504, Yard Requirements, e.g. Yard Exceptions-Fences, Hedges, and Walls. The gate, control devices, and approach lanes shall be adequately lighted, striped, marked, and protected to provide for the safe and orderly movement of pedestrians and traffic.

- “(b) All anti-directional devices, such as metal spikes that can cause tire damage, are prohibited to be used as part of a security gate system.
- “(c) Fencing, gates, and gate opening devices shall not encroach into the public right-of-way, including the sidewalk.
- “(d) Turnaround areas are to be designed to prevent vehicles from backing onto public streets.
- “(e) Parking stall and turn around dimensions shall conform to the Section 10-2.602, Parking Space Dimensions, and Section 10-2.624, Circulation to Parking and Loading Spaces.
- “(f) Security gate systems shall not block access to public resources and amenities such as public parks, schools, and trails, or interfere with existing or proposed transportation and circulation plans including established pedestrian and bicycle routes.
- “(g) All properties shall be well maintained and kept free of graffiti.
- “(h) Site plan review is required prior to the construction of a security gate unless the Planning Director determines that the gate design meets all requirements, City policies, standards, and guidelines.
- “(i) Single-family dwellings in all districts are exempt from the provisions of this ordinance.

“SEC. 10-14.200. EXISTING MULTI-FAMILY RESIDENTIAL.

- “(a) Security gates conforming to applicable standards shall be permitted within existing multi-family developments unless the City Engineer determines that an unsafe traffic situation would result.
- “(b) Access shall be provided at all times for police, fire, City inspection, utility and other health and safety related vehicles. A gate opening system to provide for emergency vehicle access shall be installed to the satisfaction of the Police Chief and Fire Marshal.
- “(c) Only decorative metal is permitted for security gates and fencing unless an alternative material is approved by the Planning Director. The use of razor wire, barbed wire, or similar deterrents is prohibited in residential projects.

- “(d) Provisions shall be made to provide access to required visitor parking stalls. A call box shall be installed to allow visitors to contact residents to gain access into the complex.**
- “(e) All security gate and fence systems shall provide a pedestrian access gate, which shall meet Americans with Disabilities Act regulations. The pedestrian gate shall be self-closing and locking.**
- “(f) A turnaround is required and may be permitted within the front yard setback on a property with a minimum street frontage of 100 feet and upon approval by the Planning Director. A minimum 5-foot back-up notch with a 2-foot overhang beyond the paved circulation area is permitted upon approval. The back-up distance for the turnaround stall shall conform to Off-Street Parking Regulations.**
- “(g) A minimum 20-foot irrigated landscape setback shall be provided across the property frontage except where the security gate and turn-around are located. A minimum 10-foot irrigated landscape setback that includes a 3-foot-high hedge and/or shrubs shall screen any turnaround and visitor parking spaces adjacent to the security gate.**
- “(h) A landscape plan prepared by a licensed landscape architect is required unless the plan is waived by the Planning Director because quality, well maintained landscaping already exist or the proposed design does not require additional landscaping. All landscape areas shall be irrigated.**
- “(i) The required turnaround stall may be used as a temporary parking area in order to utilize a call box to contact an occupant within the complex. The turnaround stall and 5-minute parking limitation shall be designated through striping and signage.**
- “(j) Reflectors shall be attached to the interior and exterior sides of the gate at the height between 1 and 3 feet.**
- “(k) The driveway width through the gate opening shall be a minimum of 12 feet wide when serving 1-7 parking spaces and a minimum of 20 feet wide when serving 8 or more parking spaces.**
- “(l) Where access to a parking, loading, and/or driving aisle is controlled by gates, there shall be sufficient width for either two side-by-side entry vehicles or sufficient depth for two queued-entry vehicles, or greater if required by the Planning Director, between the gates and the street right-of-way or sidewalk, whichever is closer. There also shall be sufficient paved turn-around area**

between the gates and the street right-of-way or sidewalk, whichever is closer, to allow a vehicle to turn around and exit the property in a forward direction without opening the gate.

- “(m) All security gates must have manual back-up systems and alternative energy back-up systems, such as a generator or battery, which would allow operation of the security gate(s) during an electrical power outage.
- “(n) All security gate systems shall provide security lighting for vehicle and pedestrian entrances, the visitor parking space(s), and the vehicle turn-around area. The Planning Director shall approve the lighting design.

“SEC. 10-14.201 – NEW MULTI-FAMILY RESIDENTIAL.

- “(a) At the entry point, security gates conforming to applicable standards shall be permitted within new multi-family developments unless the City Engineer determines that an unsafe traffic situation would result.
- “(b) Access shall be provided at all times for police, fire, City inspection, utility and other health and safety related vehicles. A gate opening system to provide for emergency vehicle access shall be installed to the satisfaction of the Police Chief and Fire Marshal.
- “(c) Only decorative metal is permitted for security gates and fencing unless an alternative material is approved by the Planning Director. The use of razor wire, barbed wire, or similar deterrents is prohibited in residential projects.
- “(d) Provisions shall be made to provide access to required visitor parking stalls. A call box shall be installed to allow visitors to contact residents to gain access into the complex.
- “(e) All security gate and fence systems shall provide a pedestrian access gate, which shall meet Americans with Disabilities Act regulations. The pedestrian gate shall be self-closing and locking.
- “(f) A turnaround shall be provided beyond the front yard set back providing a minimum 20-foot irrigated landscaped front yard. The turn-around shall include a minimum 5-foot deep back-up area.
- “(g) The required turnaround stall may be used as a temporary parking area in order to utilize a call box to contact an occupant within the complex. The turnaround stall and 5-minute parking limitation shall be designated through striping and

signage.

- “(h) Reflectors shall be attached to the interior and exterior sides of the gate at the height between 1 and 3 feet.
- “(i) A minimum 20-foot irrigated landscape setback shall be provided across the property frontage except where the security gate and turnaround are located. A minimum 10-foot irrigated landscape setback that includes a 3-foot-high hedge and/or shrubs shall screen any turnaround and visitor parking spaces adjacent to the security gate.
- “(j) The driveway width through the gate opening shall be a minimum of 12 feet wide when serving 1-7 parking spaces and a minimum of 20 feet wide when serving 8 or more parking spaces.
- “(k) Where access to a parking, loading, and/or driving aisle is controlled by gates, there shall be sufficient width for either two side-by-side entry vehicles or sufficient depth for two queued-entry vehicles, or greater if required by the City Engineer, between the gates and the street right-of-way or sidewalk, whichever is closer. There also shall be sufficient paved turnaround area between the gates and the street right-of-way or sidewalk, whichever is closer, to allow a vehicle to turn around and exit the property in a forward direction without opening the gate.
- “(l) All security gates must have manual back-up systems and alternative energy back-up systems, such as a generator or battery, which would allow operation of the security gate(s) during an electrical power outage.
- “(m) All security gate systems shall provide security lighting for vehicle and pedestrian entrances, the visitor parking space(s), and the vehicle turnaround area. The Planning Director shall approve the lighting design.
- “(n) A landscape plan prepared by a licensed landscape architect is required unless waived by the Planning Director. All landscape areas shall be irrigated.

“SEC. 10-14.202 -- SINGLE-FAMILY COMMUNITIES.

- “(a) Security gates that conform to applicable standards shall be permitted across private streets unless the Planning Director, in consultation with the City Engineer, determines that an unsafe traffic situation would be created, that the gate would result in interruption of the street network, or where public access to public amenities or facilities would be obstructed or hindered.

- “(b) Access shall be provided at all times for police, fire, City inspection, utility and other health and safety related vehicles. A gate opening system to provide for emergency vehicle access shall be installed to the satisfaction of the Police Chief and Fire Marshal
- “(c) Only decorative metal is permitted for security gates and fencing unless an alternative material is approved by the Planning Director. The use of razor wire, barbed wire, or similar deterrents is prohibited in residential projects.
- “(d) Entrances to gated private streets shall be designed to allow vehicles to turn around on-site without backing onto public streets.
- “(e) A bypass lane and a call box are required.
- “(f) Median islands, located in private street entrances, shall be set back a minimum of 20 feet from the intersection of the public right-of-way. All median islands shall be landscaped to the satisfaction of the City of Hayward Landscape Architect.
- “(g) When a request is made to gate an existing community, all property owners within the area to be gated, or their homeowners’ association, shall agree in writing to the request and agree to be responsible for the maintenance of the gate equipment, fences, walls, traffic control devices, roadway and landscaping. The Covenants, Conditions and Restrictions (CC&R’s) shall reflect all conditions of approval for the security gate.
- “(h) All security gate systems shall provide security lighting for vehicle and pedestrian entrances, the visitor parking space(s), and the vehicle turnaround area. The Planning Director shall approve the lighting design.
- “(i) Reflectors shall be attached to the interior and exterior sides of the gate at the height between 1 and 3 feet.
- “(j) A landscape plan prepared by a licensed landscape architect is required unless a plan is waived by the Planning Director because quality well maintained landscaping already exists or the proposed design does not require additional landscaping. All landscape areas shall be irrigated.

“SEC. 10-14.203 – COMMERCIAL.

- “(a) Security gates conforming to applicable standards shall be permitted within existing commercial developments unless the City Engineer determines that an unsafe traffic situation would result.

- "(b) Access shall be provided at all times for police, fire, City inspection, utility and other health and safety related vehicles. A gate opening system to provide for emergency vehicle access shall be installed to the satisfaction of the Police Chief and Fire Marshal.
- "(c) Only decorative metal is permitted for security gates and fencing visible from the street right-of-way unless otherwise approved by the Planning Director.
- "(d) All security gate and fence systems shall provide a pedestrian access gate, which shall meet Americans with Disabilities Act regulations. The pedestrian gate shall be self-closing and locking.
- "(e) All security gates must have manual back-up systems and alternative energy back-up systems, such as a generator or battery, which would allow operation of the security gate(s) during an electrical power outage.
- "(f) All security gate systems shall provide security lighting for vehicle and pedestrian entrances, the visitor parking space(s), and the vehicle turn-around area. The Planning Director shall approve the lighting design.
- "(g) Reflectors shall be attached to the interior and exterior sides of the gate at the height between 1 and 3 feet.
- "(h) A landscape plan prepared by a licensed landscape architect is required unless a plan is waived by the Planning Director because quality well maintained landscaping already exists or the proposed design does not require additional landscaping. All landscape areas shall be irrigated
- "(I) Security gate design shall include measures for safe access. Design to be approved by the Planning Director.

Section 2. In accordance with the provisions of Section 620 of the City Charter, this ordinance shall become effective 30 days from and after the date of its adoption.

INTRODUCED at a regular meeting of the City Council of the City of
Hayward, held the 17th day of March, 1998, by Council Member Henson.

ADOPTED at a regular meeting of the City Council of the City of Hayward held the 24th day of March, 1998, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS: Jimenez, Hilson, Rodriquez, Ward, Hulteen, Henson
MAYOR: Cooper
NOES: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

APPROVED: *Robert Cooper*
Mayor of the City of Hayward

DATE: May 4, 1998

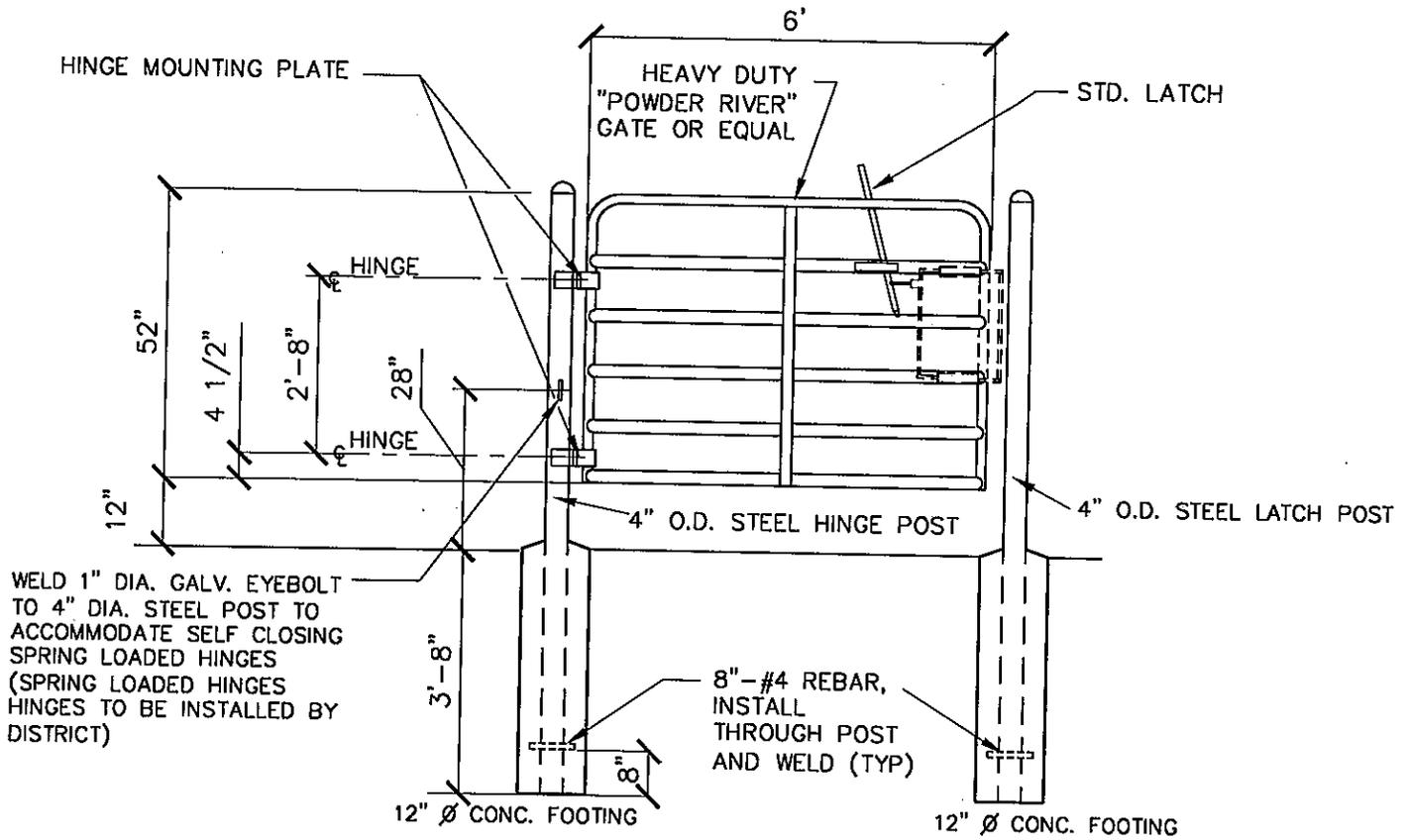
ATTEST: *Angelina Reyes*
City Clerk of the City of Hayward

APPROVED AS TO FORM:

M. O. John
City Attorney of the City of Hayward

METAL GATE NOTES:

1. GATE TO BE "CLASSIC GREEN HEAVY DUTY GREEN GATES" AS MANUFACTURED BY POWDER RIVER CO., PROVO, UTAH. (1-800-453-5318), OR EQUAL.
2. ALL METAL COMPONENTS INCLUDING GATE SHALL BE PRIMED W/ ONE COAT PRIMER AND PAINTED W/ TWO COATS OF "TRAIL BROWN". TRAIL BROWN PAINT TO BE SUPPLIED BY DISTRICT. GALVANIZED METAL SHALL BE ACID WASHED BEFORE PRIMING
3. CONCRETE FOR FOOTINGS TO BE COMMERCIAL GRADE, 1" MAX. AGGREGATE, 5 SACK MIX MINIMUM.
4. ALL HARDWARE TO BE GALVANIZED STEEL.



ELEVATION

SCALE: 3/8" = 1'-0"

	EQUESTRIAN GATE - 6 FEET WIDE		SCALE	AS SHOWN	DRAWING NO.	SHEET NO.
			DATE		GT-08	OF
						1
EAST BAY REGIONAL PARK DISTRICT						



HAYWARD AREA RECREATION AND PARK DISTRICT

1099 'E' Street, Hayward, California 94541-5299 • Telephone (510) 881-6700 FAX (510) 888-5758

October 31, 2008



Mr. Greg Jones
City Manager
City of Hayward
777 'B' Street
Hayward, California 94541

Dear Greg:

The Board of Directors of the Hayward Area Recreation and Park District in their meeting on Monday, October 27, 2008, addressed the subject of the proposed gate on Durham Way, which will be presented to the Hayward City Council on November 18, 2008. This item was placed on our Board of Directors' agenda at the request of members of the community who are concerned about the gate, and its potential impact on the Hayward Area Recreation and Park District's Greenbelt Trail.

The Board of Directors heard comments and concerns from proponents and opponents of the gate and, following prolonged discussion on the matter, the Board of Directors unanimously passed the following resolution, which they requested be forwarded to the City of Hayward staff:

" We are against the placing of the gate on Durham Way because it will deter and hinder the free and convenient access and use of the Hayward Area Recreation and Park District's much used and well-planned trailhead. Such use is for hikers, bicyclists and equestrians, both able-bodied and disabled."

While the Hayward Area Recreation and Park District Staff had previously reviewed the proposed gate matter at the request of the City of Hayward Staff to ensure that public access would be provided to park patrons, the Board of Directors had concerns about potential hindrance to that access, and wanted those concerns communicated to the City of Hayward prior to the November 18, 2008 Hayward City Council meeting.

BOARD OF DIRECTORS

Louis M. Andrade
Paul W. Hodges Jr.
Minane Jameson
Carol A. Pereira
Richard H. Sheridan

GENERAL MANAGER

Rita Bedoya Shue

Mr. Greg Jones
City Manager
City of Hayward

October 31, 2008
Page 2.

If you have additional questions, or would like to discuss this matter further,
please feel free to contact Larry Lepore, Park Superintendent at 881-6716.

Sincerely,

A handwritten signature in cursive script that reads "Rita Shue".

Rita Shue
General Manager

RS:sm

cc: Larry Lepore, Park Superintendent



HAYWARD AREA RECREATION AND PARK DISTRICT

1099 'E' Street, Hayward, California 94541-5299 • Telephone (510) 881-6700 FAX (510) 888-5758

RECEIVED

OCT 31 2007

PLANNING DIVISION

October 26, 2007

Mr. James DeLuz
Assistant Planner
City of Hayward
777 B Street
Hayward, CA 94541

RE: Durham Way Gate

Dear Mr. DeLuz:

The Hayward Area Recreation and Park District (HARD) has been involved in the proposed gate installation at Durham Way. HARD staff has been working with representatives from Woodland Knolls, especially Dr. Marshall Mitzman. The main concerns, such as public trail access, horse access, and maintenance vehicle access have to be discussed and resolved to HARD standards. The latest drawings that have been reviewed are October 11, 2005.

Therefore, HARD approves of the plans, as submitted for the construction of the automatic entrance gate located on Durham Way near the intersection of Oakes Drive with the condition that HARD will be provided with remote key access.

If you have any others questions, please contact me at 510-881-6716 or by email at lepl@haywardrec.org.

Sincerely,

Larry Lepore
Superintendent of Parks

LL:jb

Cc: Dr. Marshall Mitzman

BOARD OF DIRECTORS

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Douglas F. Morrisson
Carol A. Pereira
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GENERAL MANAGER

Eric Willyerd