

DATE ISSUED: Land Use and Housing Committee

REPORT NO. 01-156

ATTENTION: Land Use and Housing Committee  
Agenda of August 1, 2001

SUBJECT: Council Policy 600-42, Limited and Controlled Access Development  
(Gated Communities)

### SUMMARY

Issue - Should the Land Use and Housing Committee recommend staff proceed with drafting an amendment to Council Policy 600-42, Limited and Controlled Access Development (Gated Communities)?

Manager's Recommendation - Consider directing staff to make revisions to Council Policy 600-42, Limited and Controlled Access Development (Gated Communities).

Other Recommendations - None.

Fiscal Impact - None.

### BACKGROUND

On May 1, 2001, the City Council directed the City Manager to schedule Council Policy 600-42, Limited and Controlled Access Development (Gated Communities), for discussion before the Land Use and Housing Committee. The request was made by Councilmember Peters in response to a hearing involving a gated entry development within the Black Mountain Ranch Planning Area (Fairbanks Summit RZ/TM/PRD/RPO No. 99-1364).

Council Policy 600-42 is the first Council Policy adopted to provide guidance for consideration of applications for limited or controlled access to new or existing communities (see Attachment). The policy was developed in conjunction with an amendment to the Progress Guide and General Plan designed to remove the prohibition of gated developments from the North City Future Urbanizing Framework Plan. Both the policy and the amendment were approved on November 26, 1996.

The Gated Communities Policy provides criteria to be used for reviewing applications for limited and controlled access proposals. Limited access proposals utilize mechanisms such as bollards, curb pop-outs, and directional signs to control traffic flow on public streets without prohibiting it. Controlled access (gated entry) proposals require private streets and utilize gates to prevent unauthorized public access and may be used for single family or multifamily projects. Controlled access into multifamily projects is less problematic since they typically use the gated entry to secure driveway access and onsite parking. This report is focused on the controlled access portion of the policy.

Council Policy 600-42 purposely includes only general criteria to be used as guidelines in reviewing applications for gated entry proposals. The ten criteria can be categorized as tangible, abstract, or open to interpretation. Tangible criteria are straightforward standards for which determinations of compliance or noncompliance are conclusive. Examples of tangible criteria in the policy include: does the proposed gated entry comply with state and city ordinances; does it provide access for emergency vehicles, trash pickup, and school buses; and does it grant general utility and access easements on private streets (600-42 criteria numbers 5 through 8)? Abstract criteria relate to social issues which are not quantifiable. Examples of abstract criteria in the policy include: does the gated entry proposal promote community cooperation, does it enhance the quality of life, and does it provide a community or internal benefit (600-42 criterion number 1)? Criteria that are open to interpretation are debatable standards for which arguments can be made on behalf of compliance or noncompliance with the criteria. Examples of policy criteria that are open to interpretation include: does the gated entry proposal enhance community safety; does the proposal significantly displace traffic circulation or parking to adjacent areas; does the proposal deny public access to public facilities (i.e., parks, trails, transit, and open space); does the entry provide sufficient area for stacking; and do the walls/enclosures incorporate human scale (600-42 criteria numbers 1, 3, 4, 9, and 10)?

Prior to adoption of Council Policy 600-42, the Planning Department reviewed applications for gated communities for adherence to a departmental policy on controlled access development. That policy became effective in October 1990 and was developed in response to an earlier proposal to redevelop Buena Vista Gardens in Clairemont Mesa as a gated neighborhood. The Planning Department policy was to recommend denial of gated entries in all cases believing that they contributed to the breakdown of neighborhood fabric and social interaction, interrupted pedestrian and vehicular patterns, limited public access to views and natural amenities, and created a false sense of security.

## DISCUSSION

Implementation of Council Policy 600-42 has presented challenges to staff, the public, and applicants. The interpretive and abstract nature of a number of the policy criteria has resulted in recommendations that often appear to be inconsistent from one proposal to the next. The criterion that is most often an issue, and the most problematic, is the interpretation of denial of access to public facilities. Less controversial, but also problematic, is agreement on compliance with abstract criteria and implementation of villages identified in existing land use plans and in the Strategic Framework Element's City of Villages concept.

The determination that most consistently sparks debate among staff, the public, and the applicant is that a gated entry denies public access to public facilities or public spaces (600-42 criterion number 3). Several issues, which are not addressed in the Council Policy, arise when proposals have the potential to deny public access to open spaces, beaches, parks, trails, or other public facilities.

Criterion number 3 states that "Public Access is not denied to open spaces, beaches, parks, trails, commercial areas, transit stops, major streets, schools, or public facilities which are available for public use or access." Interpretations of this criterion have brought forth a number of issues related to denied versus limited access, the perceptions of gated entries, and the definition of public facilities for public use that have made a consistent determination of this criterion difficult. The policy states that access is not to be denied. Applications for gated entries have

identified alternative access points from as near as two hundred feet to as far as one and one-half miles away. It is difficult to determine if access is considered denied only when no alternative access is available, or when another access point is not available within a certain distance. More and more frequently, at the prompting of City staff, gated entry proposals include permanently open pedestrian access. However, limiting access to pedestrians only could be denying access to members of the public that may have certain physical challenges that require automotive access (disabled or elderly members of the public) and moreover, the perception of a gated entry and guardhouse could deter public access even if the pedestrian gate is open. Finally, a number of gated entry project proposals include design features that provide areas within the project where views of adjacent public open spaces are available. In these cases it is debated if visual access to public open space should be treated the same as physical access to open space.

The lack of standards for determining compliance with abstract criteria makes quantifying the extent to which a gated entry proposal complies with abstract criteria, such as promoting community cooperation or significantly enhancing the quality of life, problematic (600-42 criterion number 1). Gated entry proposals usually provide minimal discussion on how the proposal accomplishes these criteria. Most often the proposal includes language that intends to demonstrate compliance, but fails to provide any data to quantify the statements. The result of having no standards or tools to determine compliance has generally been a prima facie acceptance that a gated entry proposal complies with the criteria.

Although not specifically addressed in the Council Policy, staff must also consider the location of the project in which a gated entry is proposed. There is a concern that gated entries will be proposed in neo-traditional villages that are to be developed in conformance with existing land use plans as well as those villages anticipated to be developed with implementation of the City of Villages concept proposed as part of the Strategic Framework Element. Villages should incorporate elements of neo-traditional town planning and implement the principles of the City's Transit-Oriented Development Design Guidelines. Development in villages should foster integrated neighborhoods, grid or modified grid systems that provide for alternative public traffic circulation, and walkability. Gated entry projects can segregate communities, inhibit alternative public transportation, and may impact the walkability of a community.

Staff is aware there are economic issues associated with proposals for gated entries. It is the homeowners' association, and not the City, that is responsible for the costs of trash collection and street maintenance when streets are private (as required for gated access). A benefit to the developer and/or builder is the estimated additional 10 to 15 percent increase in the sale price of a home that is located behind a gated entry. Often these economic factors become a part of the discussion at Planning Commission hearings.

## RECOMMENDATION

If the Planning Department is directed to make revisions to Council Policy 600-42, the department recommends the focus be placed on three issues. First, the policy be reorganized to divide the criteria into two sections, a section addressing the criteria for considering the appropriateness of a gated entry and a section enumerating the requirements for implementing an approved gated entry. Second, the policy criteria be revised to clarify issues related to denial of public access to public facilities and be revised to provide more quantifiable and qualifiable standards or measurements for compliance with abstract criteria. Third, the policy be expanded to include a new criterion that would restrict gated entries within areas identified as villages in

existing land use plans or identified as villages by the Strategic Framework Element.

ALTERNATIVE

Direct staff to make no revisions to Council Policy 600-42, Limited and Controlled Access Development (Gated Communities).

Respectfully submitted,

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S. Gail Goldberg, A.I.C.P..... Approved: .... P. Lamont Ewell .....  
Planning Director..... Assistant City Manager

GOLDBERG/DPJ

Attachment: Council Policy 600-42, Limited and Controlled Access Development (Gated Communities)