

DRAFT RESOLUTION

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
GRANTING AN APPEAL OF THE PLANNING COMMISSION DECISION TO DENY A FENCE
HEIGHT EXCEPTION REQUEST AND APPROVE THE CONSTRUCTION OF A SIX-FOOT
FENCE LOCATED WITHIN THE REQUIRED FRONT YARD SETBACK AND A VEHICULAR
GATE SET BACK LESS THAN 18 FEET FROM THE EDGE OF THE ADJACENT STREET ON
PROPERTY ZONED R-1:10.**

**APN 523-04-043
FENCE HEIGHT EXCEPTION APPLICATION: FHE-21-003
PROPERTY LOCATION: 755 BLOSSOM HILL ROAD
APPELLANT/PROPERTY OWNERS: DAVID AND ILANA KOHANCH
APPLICANT: NINA GURALNIC**

WHEREAS, on December 14, 2020, the Town issued an administrative warning for a code violation at 755 Blossom Hill Road and requested that the property owners reduce their six-foot fence along the front property line down to three feet , and to remove the vehicular gate, to meet Town Code, by January 3, 2021; and

WHEREAS, on February 12, 2021, the property owner applied for an exception to the Town's fence regulations for the unpermitted construction of the vehicular gate and fencing on the subject property, which does not comply with the Town Code fence regulations for height and setbacks; and

WHEREAS, on July 2, 2021, the Town denied the exception request because the findings listed in Town Code Section 29.40.0320 could not be made; and

WHEREAS, on July 7, 2022, the Town issued a second administrative warning for a code violation. This administrative warning requested the property owners to: remove the illegal fence and gate; modify the fence and gate to comply with Town Code; or file an appeal of the decision to deny the fence height exception by August 7, 2022; and

WHEREAS, on August 5, 2022, the decision of the Community Development Director to deny the exception request was appealed to the Planning Commission; and

WHEREAS, on November 9, 2022, this matter came before the Planning Commission for public hearing and considered an appeal of the Community Development Director denial of a fence height exception request for construction of six-foot tall fencing located within the required front yard setback and construction of a vehicular gate with reduced setbacks and was

regularly noticed in conformance with State and Town law; and

WHEREAS, on November 9, 2022, the Planning Commission denied the appeal and denied the fence height exception request; and

WHEREAS, on November 14, 2022, the decision of the Planning Commission was appealed to the Town Council by the property owners, David and Ilana Kohanchi; and

WHEREAS, on December 13, 2022, the appellant made a request for a continuance of the item from December 20, 2022, to a date certain of January 17, 2023.

WHEREAS, on December 20, 2022, the Town Council opened the public hearing to take public comments from members of the public who would not be able to attend the January 17, 2023, meeting and continued the appeal hearing to January 17, 2023, and was regularly noticed in conformance with State and Town law; and

WHEREAS, this matter came before the Town Council for public hearing on January 17, 2023, and was regularly noticed in conformance with State and Town law; and

WHEREAS, the Town Council received testimony and documentary evidence from the appellant and all interested persons who wished to testify or submit documents. The Town Council considered all testimony and materials submitted, including the record of the Planning Commission proceedings and the packet of material contained in the Council Agenda Report for their meeting on January 17, 2023, along with any and all subsequent reports and materials prepared concerning this application.

NOW, THEREFORE, BE IT RESOLVED:

1. The appeal of the decision of the Planning Commission denying a fence height exception for construction of a six-foot fence located within the required front yard setback and a vehicular gate set back less than 18 feet from the edge of the adjacent street on property zoned R-1:10 **is granted and the application is approved.**

2. The Town Council finds that the project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15303: New Construction or Conversion of Small Structures.

3. The Town Council hereby approves the fence height exception with conditions of

approval set forth in Exhibit A and shown in the development plans in Exhibit B.

4. The decision constitutes a final administrative decision pursuant to Code of Civil Procedure section 1094.6 as adopted by section 1.10.085 of the Town Code of the Town of Los Gatos. Any application for judicial relief from this decision must be sought within the time limits and pursuant to the procedures established by Code of Civil Procedure section 1094.6, or such shorter time as required by state and federal Law.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 17th day of January 2023, by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

TOWN COUNCIL – January 17, 2023
CONDITIONS OF APPROVAL:

755 Blossom Hill Road
Fence Height Exception FHE-21-003

Consider an Appeal of a Planning Commission Decision to Deny a Fence Height Exception Request for Construction of a Six-Foot Fence Located Within the Required Front Yard Setback and a Vehicular Gate Set Back Less than 18 Feet from the Edge of the Adjacent Street on Property Zoned R-1:10. APN 523-04-043. PROPERTY OWNER/APPELLANT: David and Ilana Kohanchi. APPLICANT: Nina Guralnic. PROJECT PLANNER: Savannah Van Akin.

TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT:

Planning Division

1. APPROVAL: This application shall be completed in accordance with all of the conditions of approval listed below.
2. EXPIRATION: The Fence Height Exception approval will expire two years from the approval date pursuant to Section 29.20.320 of the Town Code, unless the approval has been vested.
3. BUILDING PERMIT: The proposed vehicular gate requires a Building Permit.
4. FENCE AND GATE SHARP POINTS: Any sharp points shall be removed, prior to the issuance of a building permit.
5. TOWN INDEMNITY: Applicants are notified that Town Code Section 1.10.115 requires that any applicant who receives a permit or entitlement from the Town shall defend, indemnify, and hold harmless the Town and its officials in any action brought by a third party to overturn, set aside, or void the permit or entitlement. This requirement is a condition of approval of all such permits and entitlements whether or not expressly set forth in the approval and may be secured to the satisfaction of the Town Attorney.



SITE PLAN

755 BLOSSOM HILL ROAD
 APN: 523-04-043
 LOT SIZE: 21.092 SF (48 ACRES)
 ZONING: R-110
 TRACT: BLOSSOM HILL MANOR
 SUIT NO

755 BLOSSOM HILL ROAD

1/8" = 1'-0"



EXHIBIT B

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