



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 9/14/2022

ITEM NO: 2

DATE: September 9, 2022

TO: Planning Commission

FROM: Joel Paulson, Community Development Director

SUBJECT: Consider an Appeal of a Community Development Director Decision to Deny 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 on Property Zoned R-1:10. **Located at 755 Blossom Hill Road.** APN 523-04-043. Fence Height Exception Application FHE-21-003. PROPERTY OWNER: David and Ilana Kohanchi. APPLICANT: Nina Guralnic. PROJECT PLANNER: Savannah Van Akin.

RECOMMENDATION:

Deny the appeal of a Community Development Director decision to deny an exception to the Town's fence regulations on property zoned R-1:10, located at 755 Blossom Hill Road.

PROJECT DATA:

General Plan Designation: Low Density Residential

Zoning Designation: R-1:10 – Single-family residential

Applicable Plans & Standards: General Plan, Residential Design Guidelines

Parcel Size: 21,058 square feet

Surrounding Area:

	Existing Land Use	General Plan	Zoning
North	Residential	Low Density Residential	R-1:8
South	Residential & Commercial	High Density Residential & Neighborhood Commercial	R-M:12-20:PD & C-1
East	Residential	Low Density Residential	R-1:10
West	Office	Office Professional	O

PREPARED BY: SAVANNAH VAN AKIN
Assistant Planner

Reviewed by: Planning Manager and Community Development Director

CEQA:

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. The project proposes fencing and a vehicular gate.

FINDINGS:

- 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.

ACTION:

The decision of the Planning Commission is final unless appealed within ten days.

BACKGROUND:

The subject property is located on the north side of Blossom Hill Road, east of the intersection with Camelia Terrace (Exhibit 1).

On December 14, 2020, the Town issued an administrative warning for a code violation at 755 Blossom Hill Road (Exhibit 4). This warning was sent after several complaints were submitted regarding a front yard fence/vehicular gate. This letter requested that the property owners reduce their six-foot fence along the front property line down to three feet to meet Town Code, by January 3, 2021.

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 (Exhibits 5 and 6). The request was based on concerns related to protection for children, animals, and a garden. Privacy is also listed as a concern.

Staff contacted the property owner to discuss concerns with the vehicular gate and fence and explore potential options available.

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, safety concerns including the location of the metal fencing relative to the driveway which obstructs visibility as vehicles exit the driveway and cross over the sidewalk and into the roadway, and the reduced setback of the vehicular gate would not allow for vehicles to clear the travel lanes of Blossom Hill Road while queuing (Exhibit 7).

BACKGROUND (continued):

On November 16, 2021, staff contacted the property owner and provided examples of similar fence height exception requests that were appealed to the Planning Commission. Staff also reminded the property owners of the options to remedy the situation. These options included: removing the illegal fence and gate; modifying the fence and gate to comply with Town Code; or filing an appeal of the decision to deny the fence height exception.

The property owner was contacted via email on January 31, 2022, March 22, 2022, April 5, 2022, May 3, 2022, and May 24, 2022. Staff asked for a progress update and provided the options to remedy the situation.

On July 7, 2022, the Town issued a second administrative warning for a code violation (Exhibit 8). This letter 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.

On August 5, 2022, the decision of the Community Development Director to deny the exception request was appealed to the Planning Commission (Exhibit 9).

PROJECT DESCRIPTION:

A. Location and Surrounding Neighborhood

The subject property is located on the north side of Blossom Hill Road, east of the intersection with Camelia Terrace (Exhibit 1). The property has single-family residential properties to the north and east, a senior living facility and a commercial center to the south, and an office to the west.

B. Project Summary and Zoning Compliance

The property owner is appealing the Community Development Director decision to deny a request for an exception to the fencing regulations of the Town Code for the unpermitted construction of the vehicular gate and fencing.

DISCUSSION:

A. Fence Height Exception

The property owner requested an exception to the fence regulations to approve a constructed six-foot fence located within the required front yard and a vehicular gate set back less than eighteen (18) feet from the edge of the adjacent street (Exhibits 5 and 6). The vehicular gate and fencing exceed the three-foot height limitation when located

DISCUSSION (continued):

in a required front setback, traffic view area, and driveway view area; and the vehicular gate does not meet the 18-foot setback requirement as measured from the edge of the street.

Per Town Code Section 29.40.0315 (a)(3), fences, walls, gates, and hedges may not exceed a height of three feet when located within a required front or side yard abutting a street, driveway view area, or traffic view area unless an exception is granted by the Town Engineer and Community Development Director. This regulation is intended to minimize conflicts between pedestrians, cyclists, and cars by ensuring fences, walls, gates, and hedges do not obstruct the view from a car as it exits a driveway and crosses over a sidewalk to enter the roadway. Limiting the height of fences and gates to no more than three feet in these areas allows drivers and pedestrians a view of each other while continuing to afford property owners the opportunity to define the boundaries of their property. The required front yard setback in the R-1:10 zone is 25 feet. A traffic view area is the area which is within 15 feet of a street and a driveway view area is a triangular area at the intersection of driveways and sidewalks and street intersections having sides 10 feet in length (Exhibit 10). The existing six-foot tall wood fence has a minimum setback of nine feet from the property line and the six-foot tall metal fence and vehicular gate are located on the property line (Exhibit 11).

Per Town Code Section 29.40.0315 (c)(3), vehicular gates shall be set back from the edge of the adjacent street a minimum of 18 feet. The intent of this regulation is to allow for vehicles to clear the travel lanes while queuing as the gate is opening.

Per Town Code Section 29.40.0315 (b)(1)(c), barbed or razor wire fences, including any fence with attached barbs, sharp points, or razors materials are prohibited. The existing metal fence and gate has distinct sharp points at the top (Exhibit 12).

Town Code Section 29.40.0320, provided below, allows an exception to any of the fence regulations if a property owner can demonstrate that one of the following conditions exist.

Sec. 29.40.0320. - Exceptions.

An exception to any of these fence regulations may be granted by the Community Development Director. A fence exception application and fee shall be filed with the Community Development Department and shall provide written justification that demonstrates one (1) of the following conditions exist:

- (a) Adjacent to commercial property, perimeter fences or walls may be eight (8) feet if requested or agreed upon by a majority of the adjacent residential property owners.*

DISCUSSION (continued):

- (b) On interior lots, side yard and rear yard fences, walls, gates, gateways, entry arbors, or hedges, behind the front yard setback, may be a maximum of eight (8) feet high provided the property owner can provide written justification that either:
 - (1) A special privacy concern exists that cannot be practically addressed by additional landscaping or tree screening; or*
 - (2) A special wildlife/animal problem affects the property that cannot be practically addressed through alternatives. Documented instances of wildlife grazing on gardens or ornamental landscaping may be an example of such a problem.**
- (c) At public utility facilities, critical infrastructure, and emergency access locations, exceptions may be granted where strict enforcement of these regulations will result in a security or safety concern.*
- (d) A special security concern exists that cannot be practically addressed through alternatives.*
- (e) A special circumstance exists, including lot size or configuration, where strict enforcement of these regulations would result in undue hardship.*

The property owner requested an exception due to security and privacy concerns (Exhibit 5 and 6). The privacy concerns were related to the property's proximity to commercial centers and medical offices, citing instances when people mistake their home for the chiropractor's office next door. Regarding the security concerns, the property owner cited protecting children, containing animals, and protecting a garden as justification.

Staff was unable to support the proposed exceptions as the location of the metal fencing relative to the driveway creates a safety concern as vehicles exit the driveway and cross over the sidewalk to enter the roadway. Additionally, the location of the vehicular gate would not allow for vehicles to clear the travel lanes while queuing. Parks and Public Works Department staff reviewed the proposal and could not support the exception requests. The Town denied the exception request on July 2, 2021 (Exhibit 7).

B. Appeal Analysis

The decision of the Community Development Director to deny the Fence Height Exception application was appealed on August 5, 2022 (Exhibit 9), after several months of staff reaching out and after a second administrative warning letter was sent on July 7, 2022. The appellant lists security and the unique location as justification for their appeal. The appellant's letter raises several points to support their appeal of the fence height exception as listed below.

DISCUSSION (continued):

1. The noncompliant fence and gate are already built.
2. All other noncompliant fences within the Town should be altered to meet Town Code.
3. The fence provides protection against wildlife.
4. The fence adds extra security for their family while away at work.
5. The fence adds extra security and privacy against intrusions from the public.
6. The location of their home is uniquely surrounded by businesses.
7. Town staff were not accessible for questions during the pandemic closure.
8. The fence provided safety during COVID.

The property appellant's letter also provided responses to support their appeal of the 18-foot setback requirement for the vehicular gate as listed below.

1. There are existing seven feet tall trees lining the property that block visibility.
2. Their fence has gaps between the rails, making visibility easy for incoming or outgoing vehicles.
3. The gate receiver works from a distance of 1,000 feet, which prevents cars from stopping in the road to enter through the gate.
4. They are willing to leave the gate open during the day. The gate is to prevent nighttime intruders.
5. Their home is uniquely placed among commercial properties, and along Blossom Hill Road, creating a less defined "neighborhood character."

C. Environmental Review

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.

PUBLIC COMMENTS:

Written notice was sent to property owners and tenants within 300 feet of the subject property. At time of preparation of this report, no public comment has been received.

CONCLUSION:

A. Summary

The property owner is requesting that the Planning Commission reconsider the Community Development Director's decision to deny the exceptions to the fence regulations to maintain an unpermitted vehicular gate and fencing that exceeds the three-foot height

CONCLUSION (continued):

limitation when located in a required front setback, and a vehicular gate that does not meet the 18-foot setback requirement as measured from the edge of the street.

B. Recommendation

Staff recommends that the Planning Commission deny the appeal of a Community Development Director decision to deny the exceptions to the Town's fence regulations.

C. Alternatives

Alternatively, the Commission can:

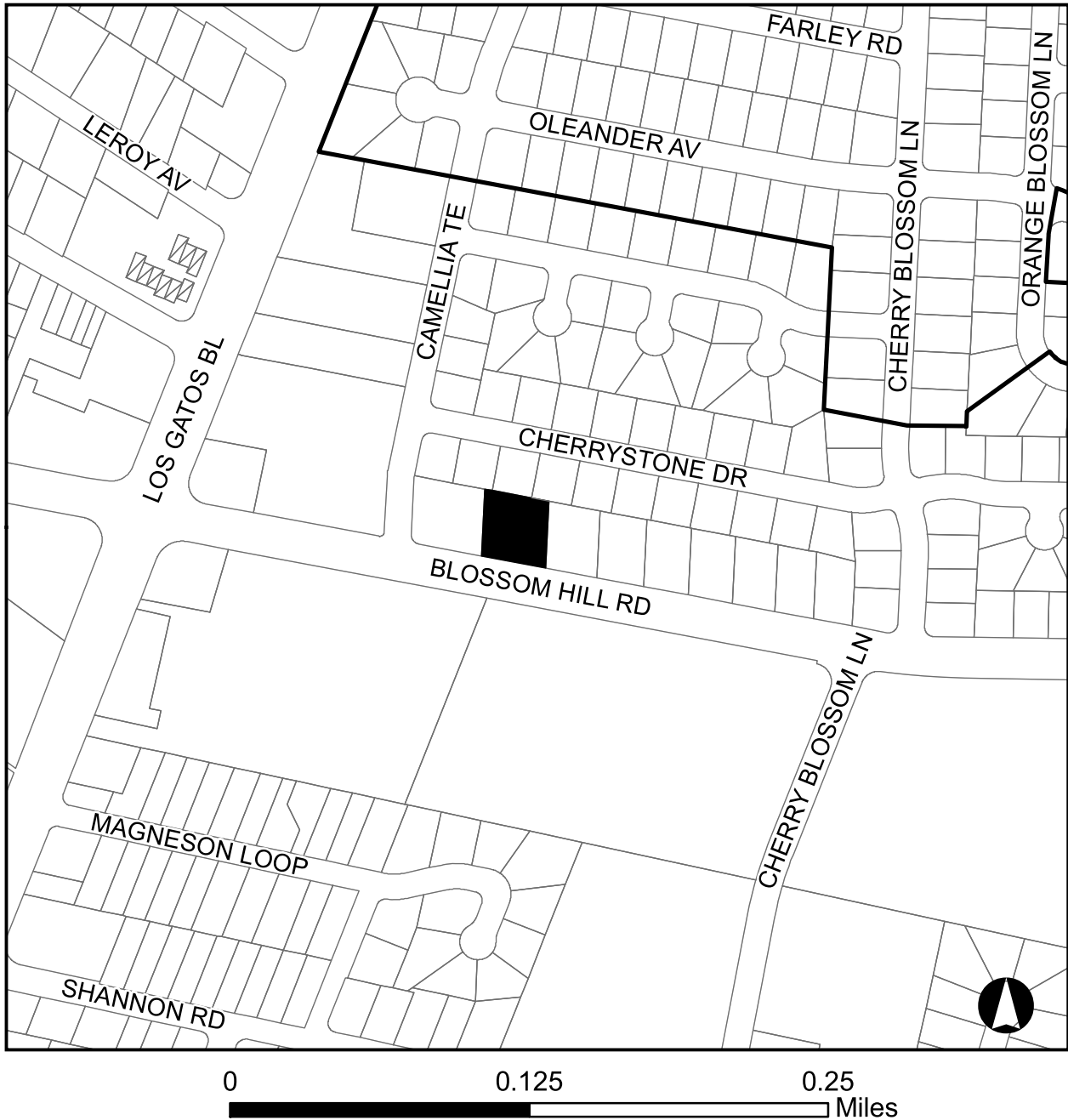
1. Continue the matter to a date certain with specific direction;
2. Grant the appeal and approve the exceptions to the Town's fence regulations with the finding in Exhibit 2 and the draft conditions provided in Exhibit 3; or
3. Grant the appeal with additional and/or modified conditions.

EXHIBITS:

1. Location Map
2. Required Findings and Considerations
3. Recommended Conditions of Approval
4. Administrative Warning Letter, dated December 14, 2020
5. Fence Height Exception Request, dated February 12, 2021 to the Community Development Department
6. Fence Height Exception Request, dated February 12, 2021 to the Parks and Public Works Department
7. Fence Height Exception Denial Letter, dated July 2, 2021
8. Administrative Warning Letter, dated July 7, 2022
9. Appeal of the Community Development Director Decision, received August 5, 2022
10. View Areas Diagrams
11. Site Plan
12. Site Images

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755 Blossom Hill Road



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PLANNING COMMISSION –September 14, 2022
REQUIRED FINDINGS FOR:

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

Consider an Appeal of a Community Development Director Decision to Deny 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 on Property Zoned R-1:10. APN 523-04-043. PROPERTY OWNER: David and Ilana Kohanchi. APPLICANT: Nina Guralnic. PROJECT PLANNER: Savannah Van Akin.

Required finding for CEQA:

- 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.

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PLANNING COMMISSION – September 14, 2022
CONDITIONS OF APPROVAL

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

Consider an Appeal of a Community Development Director Decision to Deny 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 on Property Zoned R-1:10. APN 523-04-043. PROPERTY OWNER: 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.

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TOWN OF LOS GATOS

CIVIC CENTER
110 E. MAIN STREET
LOS GATOS, CA 95030

December 14, 2020

David and Llana Kohanchi
755 Blossom Hill Road
Los Gatos, CA 95030

Administrative Warning

Re: Code Violation at 755 Blossom Hill Rd, Los Gatos

As you are aware, the Town of Los Gatos Community Development Department has received complaints regarding the above referenced property. The complaints are in regards to a front yard fence/vehicular gate and alleged unpermitted construction. Front yard fencing shall be no taller than three feet in height and a vehicular gate may be no closer than 18 feet from the property line.

The Town has received three complaints regarding unpermitted construction consisting of interior electrical and plumbing work started without permits as well as unpermitted work on the detached garage. I contacted your assistant (Sherena) about a month ago and have not heard back from her. She was to get back to me regarding the fence/vehicular gate and unpermitted construction.

Pursuant to Town Code Section 29.40.0315, - Height, materials and design, and location.

(a) Height.

(3) Fences, walls, gates, and hedges may not exceed three (3) feet in height when located within a required front or side yard abutting a street (as required by the zone), driveway view area, traffic view area, or corner sight triangle unless an exception is granted by the Town Engineer and Community Development Director. Trees, hedges, and vegetation within a corner sight triangle shall meet the requirements of section 26.10.065.

(c) Location.

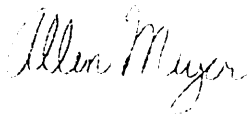
(3) Vehicular gates shall be set back from the edge of the adjacent street a minimum of eighteen (18) feet as measured along the centerline of the driveway.



Pursuant to Town Code Section 6.150.010 (R 105.1) Permit Required. Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

Accordingly, we are asking that the six feet fence along the property line be reduced in height to three feet, the vehicular gate be removed, and all required permits be submitted by **January 3, 2021**. Failure to comply by the compliance date will result in a citation. Please feel to contact me if you should have any questions regarding this notice at ameyer@losgatosca.gov or at 408-399-5746.

Respectfully yours,

A handwritten signature in cursive script that reads "Allen Meyer".

Allen Meyer
Code Compliance Officer
Town of Los Gatos

Dear Mr. Mora,

Upon purchasing this house, we hoped to have a warm welcome to the neighborhood. We are spending a life's fortune to live in Los Gatos, in the hopes that our newborn daughter has the best chance at a successful, fruitful, and healthy life.

I would like to usher that I aim to be an outstanding and contributing member, and strong supporter, of the Los Gatos Community. As one of a limited number of Cardiac Anesthesiologists that cover Regional Medical Center, Good Samaritan Hospital, and O'Connor Medical Center, I spend my days in the pursuit of improving lives. This has only been validated with the recent COVID pandemic and the necessity for VV-ECMO placement (artificial devices to assist with blood oxygenation) which places all healthcare workers at a DIRECT risk.

We purchased our home amidst a global pandemic with rampant fear across the country. I, myself a physician at the front line, contacted the LG Building Department in an attempt to better understand the myriad town codes and apply for permitting. Unfortunately, things became more difficult with intermittent quarantining and unavailability of people to speak with. Our only option was to use your website logatosca.gov for answers.

- 1) Town Code Section 29.40.0315 does not appear readily accessible online. In fact, I can't find it anywhere. The only guidance available for "Fences, hedges, and walls" is section 29.40.030, which clearly states...
 - a. "In residential zones, fences, hedges, and walls not over 6 feet high are allowed on or within all property lines, except that no owner or occupant of **any corner lot or premises** in the Town shall erect or maintain upon such lot or premises any fence, hedge or wall higher than 3 feet above the curb in a traffic view area unless a permit is secured from the Town Engineer. A traffic view area is the area which is within 15 feet of a public street and within 200 feet of the right-of-way line of an intersection. Barbed wire or razor ribbon wire is prohibited in all zones."
 - b. Our front fence is precisely 6 feet in height. We didn't see our house as a **corner lot or premise**. That being said, the fence was placed out of a sense of necessity. The start of the COVID pandemic was scary for everyone. Given a demonstrated lack of concern for personal space, social distancing, and mask requirements by local residents, it became incumbent for me (and my mother-in-law) to protect my wife and future child from the heavy walking traffic. Not to mention the fact that our house resides next to a community chiropractor office inundated with strangers and across the street from a supermarket parking lot filled with homeless people. In fact, the day we moved into our home we had to kindly ask a homeless gentleman to remove his belongings from our front yard. This is now a matter of personal and public safety.

- 2) The above paragraph is very clear about stating that the 3 feet height, 15 ft from public street and 200 ft from intersection rules only apply to "any corner lot or premises."

Our house is in no way considered a corner lot or premises. The regulation also states that there is a 6ft maximum height for areas "within all property lines." Our house does fall into this category, and definitely adheres to the 6 ft maximum rule.

The Code Section 29.40.0315 applies to ANY CORNER LOT OR PREMISES, it does not say AND the premises/lot inside the block should have the same regulations. Also, it does not say OR any premises/lot inside the block should follow the same rule.

It does not say ANY premises or lots, so it is specifically applies to the corner lots/premises and cannot be considered relevant to our case.

- 3) According to Section 29.40.0305, the intent of the fence regulations is to:
 - a.) Preserve the natural beauty of the Town of Los Gatos:
 - Our fence does not block any natural beauty as it is an open view fence, not a solid fence. It does not interfere with any part of the natural beauty.
 - b.) Preserve the natural movement of wildlife:
 - The birds and squirrels can easily operate their daily lives with the fence in place.
 - c.) Protect traffic view areas:
 - The fence doesn't hamper the traffic view area as we are far away from the intersection (i.e. not the corner house)
- 4) Further according to the same Section 29.40.0305, the city of Los Gatos acknowledges the residents have the right to:
 - a.) Protect children: We have a 2 month
 - b.) old infant at home (see picture attached.)
 - c.) Contain animals
 - d.) Protect garden or agricultural areas: We have a lot of fruit trees that we love and care for.
 - e.) Maintain privacy: Invasions of our privacy have occurred multiple times:
 - Sometimes people come to our home mistakenly while searching for the chiropractor's office next door.
 - A man, posing as a lawyer for the city of Los Gatos, attempted to sneak into our front yard through the wooden fence. We did not let him in and so he sent neighbors a request to file complaints against our metal fence. Instead three different neighbors showed us his e-mails, and offered their support. In fact, they pointed out how happy they are to have something so beautiful in their neighborhood to raise their property value. Upon further investigation, we discovered that this man was actually a real estate broker. We still don't know what his reasons were for such behavior.
 - One day when walking home with my pregnant wife (before the baby was born), I had to interact with a homeless man who was attempting to use our wooden fence as a restroom.
- 5) Security is an important factor for us. The political situation is unstable, and there can be riots or dangerous situations anywhere at any time, not to mention Covid is a huge concern. For all these reasons, we need to trust that we have something secure in place to protect ourselves.
- 6.) There are several fences all over Los Gatos that are 6 feet high.

We are asking for an exception for the vehicular gate regulations.

Vehicular gates shall be set back from the edge of the adjacent street a minimum of eighteen (18) feet as measured along the centerline of the driveway. A greater setback may be required when a gated entrance serves more than one (1) house.

- (a) Adjacent to commercial property, perimeter fences or walls may be eight (8) feet if requested or agreed upon by a majority of the adjacent residential property owners.

According to the above exception, we can keep this gate because we are adjacent to a commercial property, which is a corner building.

(e) A special circumstance exists, including lot size or configuration, where strict enforcement of these regulations would result in undue hardship.

([Ord. No. 2286](#), § I, 8-6-19)

Our lot has several fruit trees that produce various fruits. Because of this, many uninvited visitors show up to collect them, including homeless people coming from the plaza across the street. We need additional security to prevent these unwanted guests. Therefore we are asking for an exception to qualify for this special circumstance.

We also would lose our emergency parking spaces entirely if we move the gate to 18 feet from the property line, as they would be blocked off by the gate. I need emergency parking that I can use to get out quickly when I am on call for urgent surgical procedures day and night.

Also, as you can imagine, not having adequate parking in one's own home is an extreme hardship and huge interference with daily life (going to and from work, carrying groceries, not to mention a heavy car seat for my wife with a baby inside.)

The only other parking space would be closer to the house, but that section is going to be used for children's play. There is no other space for our daughter to play outside when she grows up. If the parking is forced out, it would have to be moved to this space, and the baby's play area would disappear.

D.) A special security concern exists that cannot be practically addressed through alternatives.

We respectfully ask that you make an exception and allow our fence with the vehicular gate to remain intact. We are very willing to get the permit required to secure legalization of this gate. If any and all other permits are needed, we will be happy to comply. We can ask Mr. Meyer which paperwork/permit(s) are necessary. We ask that an exception be granted by the Town Engineer and Community Development Director.

Also, on our street and several streets around the neighborhood, there are many 6 feet high fences (see addresses below and pictures attached) with a high vehicular gate on the property line in plain view in front of people's houses. There are many more in the neighborhood but the following is only a list of the addresses around our house. Based on all the aforementioned reasons, we respectfully ask for you to allow us to also have such a gate and fence.

List of 6 Ft high fences addresses in our neighborhood:

- 16698 Los Gatos Almaden Road
- 16486 Los Gatos Almaden Road
- 16400 Los Gatos Almaden Road
- 16388 Los Gatos Almaden Road
- 16360 Los Gatos Almaden Road
- 16194 Los Gatos Almaden Road
- 16166 Los Gatos Almaden Road
- 16250 Blossom Hill Road
- 907 Blossom Hill Road
- 16310 Shannon Road

List of vehicular gates on the property line addresses in our neighborhood:

- 16400 Los Gatos Almaden Road
- 16388 Los Gatos Almaden Road
- 16374 Los Gatos Almaden Road
- 16360 Los Gatos Almaden Road
- 16194 Los Gatos Almaden Road
- 16166 Los Gatos Almaden Road
- 15996 Los Gatos Almaden Road
- 907 Blossom Hill Road
- 16450 Shannon Road

Thank you so much for your time and kindly attention to this matter.

With utmost respect,

The Kohanchi Family

[REDACTED]

Dear Mr. Kim,

Upon purchasing this house, we hoped to have a warm welcome to the neighborhood. We are spending a life's fortune to live in Los Gatos, in the hopes that our newborn daughter has the best chance at a successful, fruitful, and healthy life.

I would like to usher that I aim to be an outstanding and contributing member, and strong supporter, of the Los Gatos Community. As one of a limited number of Cardiac Anesthesiologists that cover Regional Medical Center, Good Samaritan Hospital, and O'Connor Medical Center, I spend my days in the pursuit of improving lives. This has only been validated with the recent COVID pandemic and the necessity for VV-ECMO placement (artificial devices to assist with blood oxygenation) which places all healthcare workers at a DIRECT risk.

We purchased our home amidst a global pandemic with rampant fear across the country. I, myself a physician at the front line, contacted the LG Planning Department in an attempt to better understand the myriad town codes and apply for permitting. Unfortunately, things became more difficult with intermittent quarantining and unavailability of people to speak with. Our only option was to use your website logatosca.gov for answers. We signed the contract and started building the fence on 9/10/2020.

- 1) Town Code Section 29.40.0315 does not appear readily accessible online. In fact, I can't find it anywhere. The only guidance available for "Fences, hedges, and walls" is section 29.40.030, which clearly states...
 - a. "In residential zones, fences, hedges, and walls not over 6 feet high are allowed on or within all property lines, except that no owner or occupant of **any corner lot or premises** in the Town shall erect or maintain upon such lot or premises any fence, hedge or wall higher than 3 feet above the curb in a traffic view area unless a permit is secured from the Town Engineer. A traffic view area is the area which is within 15 feet of a public street and within 200 feet of the right-of-way line of an intersection. Barbed wire or razor ribbon wire is prohibited in all zones."
 - b. Our front fence is precisely 6 feet in height. We didn't see our house as a **corner lot or premise**. That being said, the fence was placed out of a sense of necessity. The start of the COVID pandemic was scary for everyone. Given a demonstrated lack of concern for personal space, social distancing, and mask requirements by local residents, it became incumbent for me (and my mother-in-law) to protect my wife and future child from the heavy walking traffic. Not to mention the fact that our house resides next to a community chiropractor office inundated with strangers and across the street from a supermarket parking lot filled with homeless people. In fact, the day we moved into our home we had to kindly ask a homeless gentleman to remove his belongings from our front yard. This is now a matter of personal and public safety.
- 2) The new law that states the 3 feet height rule for fences came into effect on 9/20/2020. However, as previously stated, we began building the fence on 9/10/2020, thus it was 10 days prior to the enforcement of the new law, when the 6 ft rule was still applicable. Therefore, no rules were broken at the time of the fence's conception, and the new laws cannot be applied to us in this situation.
- 3) According to Section 29.40.0305, the intent of the fence regulations is to:

- a.) Preserve the natural beauty of the Town of Los Gatos:
 - Our fence does not block any natural beauty as it is an open view fence, not a solid fence. It does not interfere with any part of the natural beauty.
- b.) Preserve the natural movement of wildlife:
 - The birds and squirrels can easily operate their daily lives with the fence in place.
- c.) Protect traffic view areas:
 - The fence doesn't hamper the traffic view area as we are far away from the intersection (i.e. not the corner house)
- 4) Further according to the same Section 29.40.0305, the city of Los Gatos acknowledges the residents have the right to:
 - a.) Protect children: We have a 1 month old infant at home (see picture attached.)
 - b.) Contain animals
 - c.) Protect garden or agricultural areas: We have a lot of fruit trees that we love and care for.
 - d.) Maintain privacy: Invasions of our privacy have occurred multiple times:
 - Sometimes people come to our home mistakenly while searching for the chiropractor's office next door.
 - A man, posing as a lawyer for the city of Los Gatos, attempted to sneak into our front yard through the wooden fence. We did not let him in and so he sent neighbors a request to file complaints against our metal fence. Instead three different neighbors showed us his e-mails, and offered their support. In fact, they pointed out how happy they are to have something so beautiful in their neighborhood to raise their property value. Upon further investigation, we discovered that this man was actually a real estate broker. We still don't know what his reasons were for such behavior.
 - One day when walking home with my pregnant wife (before the baby was born), I had to interact with a homeless man who was attempting to use our wooden fence as a restroom.
- 5) Security is an important factor for us. The political situation is unstable, and there can be riots or dangerous situations anywhere at any time, not to mention Covid is a huge concern. For all these reasons, we need to trust that we have something secure in place to protect ourselves.
- 6.) There are several fences all over Los Gatos that are 6 feet high.

We respectfully ask that you make an exception and allow our fence with the vehicular gate to remain intact. We are very willing to get the permit required to secure legalization of this gate. If any and all other permits are needed, we will be happy to comply. We can ask Mr. Meyer which paperwork/permit(s) are necessary. We ask that an exception be granted by the Town Engineer and Community Development Director.

Thank you so much for your time and kindly attention to this matter.

With utmost respect,

The Kohanchi Family

██████████



TOWN OF LOS GATOS

COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION
(408) 354-6872 Fax (408) 354-7593

CIVIC CENTER
110 E. MAIN STREET
LOS GATOS, CA 95030

July 2, 2021

Nina Guralnic
755 Blossom Hill Road
Los Gatos, CA 95032

RE: 755 Blossom Hill Road
Fence Height Exception (FHE-21-003)

Requesting approval for a constructed six (6) foot fence located within the required front yard and a vehicular gate set back less than eighteen (18) from the edge of the adjacent street on property zoned R-1:10. APN 523-04-043.

PROPERTY OWNER: David and Ilana Kohanchi

APPLICANT: Nina Guralnic

The Los Gatos Community Development Department has reviewed the referenced application for a fence height exception pursuant to Section 29.40.0320. On July 2, 2021, the Los Gatos Community Development Department has denied the request.

PLEASE NOTE: Pursuant to Section 29.20.255 of the Town Code, this decision may be appealed to the Planning Commission within 10 days of the denial date.

Any interested person may appeal this decision to the Planning Commission. Appeals, with the completed Appeal Form and appeal fee payment, must be submitted within 10 days from the date of denial, or by 5:00 p.m., July 12, 2021.

If you have any questions concerning this decision, please contact Project Planner Diego Mora at (408) 354-6806 or via email at DMora@losgatosca.gov.

Sincerely,

Diego Mora
Assistant Planner

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TOWN OF LOS GATOS

CIVIC CENTER
110 E. MAIN STREET
LOS GATOS, CA 95030

July 7, 2022

David and Llana Kohanchi
Nina Guralnic
755 Blossom Hill Road
Los Gatos, CA 95030

Administrative Warning

Re: Code Violation at 755 Blossom Hill Rd, Los Gatos

As you are aware, the Town of Los Gatos Community Development Department has received several complaints regarding an unpermitted front yard fence on the above referenced property. An Administrative Warning letter was issued on December 14, 2020. On February 12, 2021, an application for a fence height exception (FHE-21-003) was applied for. The fence height exception was denied on July 2, 2021. An appeal of this decision was not received. On May 3rd and 24th, 2022, Planning Staff emailed you requesting a status update, no reply was received.

Options to remedy the current fence height violations on this property are to:

1. Remove the illegal fence and gate;
2. Modify the fence and remove the gate to comply with the Town Code (3 feet tall or less);
3. File an appeal of our decision to deny your requested Fence Height Exception.

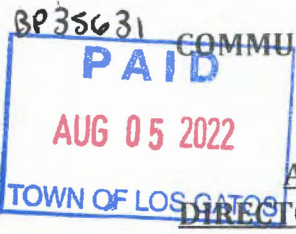
Accordingly, we are asking you to remedy the current fence violation by completing one of the above referenced options by **August 7, 2022**. Failure to comply by the compliance date may result in daily fines. Please feel to contact me if you should have any questions regarding this notice at ameyer@losgatosca.gov or at 408-399-5746.

Respectfully yours,

Allen Meyer
Code Compliance Officer
Town of Los Gatos



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TOWN OF LOS GATOS
COMMUNITY DEVELOPMENT DEPARTMENT
 110 E. Main Street
 Los Gatos, CA 95030

APPEAL OF THE DECISION OF
DIRECTOR OF COMMUNITY DEVELOPMENT

PLEASE TYPE or PRINT NEATLY

I, the undersigned, do hereby appeal a decision of the DIRECTOR OF COMMUNITY DEVELOPMENT as follows:

DATE OF DECISION: July 2nd, 2021

PROJECT/APPLICATION: Fence Height Exception (FHE-21-003)

LOCATION: 755 Blossom Hill Rd, Los Gatos, CA 95032

Pursuant to the Town Code, any interested person as defined Commission any decision of the Director.

Interested person means:

1. *Residential projects.* Any person or persons or ent 1,000 feet of a property for which a decision has be will be injured by the decision.
2. *Non-residential and mixed-use projects.* Any pers demonstrate that their property will be injured by t

LIST REASONS WHY THE APPEAL SHOULD BE GRANTED:

Please see the statement attached.

I reserve the right to submit a more detailed supplement by letter.

IMPORTANT:

1. Appeal must be filed not more than ten (10) days after Development. If the tenth (10th) day is a Saturday, Sun the workday immediately following the tenth (10th) da
2. The appeal shall be set for the first regular meeting of the Planning Commission. Planning Commission will permit, more than five (5) days after the date of the filing of the appeal. The Planning Commission may hear the matter anew and render a new decision in the matter.
3. You will be notified, in writing, of the appeal date.
4. Contact the project planner to determine what material is required to be submitted for the public hearing.

RETURN APPEAL FORM TO COMMUNITY DEVELOPMENT DEPARTMENT

PRINT NAME: Nina Guralnik

SIGNATURE: *Nina Guralnik*

DATE: 8/3/2022

ADDRESS: 755 Blossom Hill Rd, Los Gatos, CA 95032

PHONE: (415) 307-6381

EMAIL: nina_guralnik@yahoo.com

OFFICE USE ONLY

DATE OF PLANNING COMMISSION HEARING: _____

COMMISSION ACTION:	1. _____	DATE: _____
	2. _____	DATE: _____
	3. _____	DATE: _____

PLAPPEAL \$ 234.00 Residential
 PLAPPEAL \$ 934.00 Commercial
 PLAPPEAL \$ 95.00 Tree Appeals

paid v
FENCE HEIGHT EXP. APPEAL
8/5/22

We are appealing the decision to cut our fence from 6 feet to 3 feet and to move the vehicular gate 18 feet from the property line based on the following arguments:

- 1.) At the current moment, we are not applying for an exception for permission to build a fence. Our fence is already built, and it cost a great deal of money because it was made entirely from galvanized material. Now it would cost a lot to reconstruct it. We already borrowed money to build it (which we are still very slowly paying back) in order to protect our family, and now we simply don't have the funds for the reconstruction. It would be a significant financial hardship. Despite that, we love the community we live in and will do our best to work for its benefit.
- 2.) If this regulation is based on the homogenous "beauty" of the city, then we would need to remove or alter all the other existing 6 foot tall fences. Otherwise, there is no "beauty" if 900 fences are 6 feet tall and another few hundred that do comply are now 3 feet tall.
- 3.) As far as the argument that the rule somehow protects wildlife, perhaps the wildlife should be educated enough to understand that they need to enter and exit through the 3 foot high front fence, but not through the 8 foot high back and side fences. Though it can be fathomed, that the exact location of the fence in proportion to the house is of no importance whatsoever to an animal. Perhaps we don't want to welcome all wildlife into our yard. We certainly welcome bunny rabbits, but why should we invite coyotes, for example, to play with our 1 and a half year old baby?
- 4.) My son-in-law is a doctor, and by moving the vehicular gate, the city would be taking away his emergency parking that allows him to get to the OR in 5 minutes at night, when on-call. Furthermore, he should be thinking about the patient on the table in those times, rather than about the safety of his wife and daughter left alone at home without the added security of the fence. (when the house is located on a main road).
- 5.) My daughter is a well-known actress who works on popular TV shows and movies. She works mostly in Los Angeles, and though she keeps her home address as private as possible, (and Hollywood maintains that contact should go through agents rather than actors directly) she still regularly receives requests, online messages and e-mails from fans. (We have tons of these examples in writing). The messages run the gamut from requesting a simple headshot and autograph to a shout-out on social media to video messages to crazy things that you can imagine. (multiple people have asked for her address). Some fans are nice and polite while others may be stalkers. Should someone like that get a hold of her address, (which has happened in the past) with no metal fence in place, a low wooden gate that can easily be entered would lead this person straight to her front door with unbeknown intentions.

6) Location is unique.

Our house is likely one of the only ones in Los Gatos county completely surrounded by businesses. There are no other homes in this situation.

- The dental/chiropractor office next door has high foot traffic. This poses a clear safety risk to our home. The gate helps distinguish our home from the practice making it less likely for patients to inadvertently park in our driveway.
- The shopping centers (with gas station) to the right and across from us have odd characters at all hours of the day. We've seen people selling goods to one another between 1-3 AM. I've confronted people a number of times - suffice it to say we needed an added barrier of protection from these individuals.
- There is a nursing home across the street with innumerable workers on a daily basis. That creates a privacy issue. The residents of this nursing home also applaud our fence, and have expressed their support in keeping it up because it adds to the beauty of their view.
- Our home is placed on a long straight stretch of road between Cherry Blossom lane and Los Gatos Blvd. Despite the city's best efforts to curb the speed of vehicles on this road, cars are driving upwards of 60 miles/hr (measured on my radar, constantly). As I understand it there have been multiple accidents and even the death of a child in recent years. I won't be a statistic to a car accidentally jumping our curb and ending up in our living room. Our fence is galvanized steel, at six feet would be able to prevent the inevitable catastrophe in this exact scenario. Furthermore, when this tragedy occurred, people asked for the speed limit to be reduced on this road, and it has not been done yet. It seems like that is not as urgent as lowering the fence in front of our house.

7) Ordinance Contradiction

Series of events as they stand.

The home was purchased in October of 2020. Many attempts were made to communicate with the city of Los Gatos. There was limited accessibility to staff members for direct information. Their unavailability throughout most of 2021 was a problem for new homeowners unfamiliar with the area.

The day we moved into our home there was a homeless person sleeping in our driveway INSIDE of the supposed secure wooden gate already in place. The person kindly left when asked, fortunately.

Before the fence was up, various people regularly came into our backyard unannounced "picking our persimmons." Some of them were under the impression the previous owners had abandoned the property given how much quieter and more polite we were in comparison. They were shocked when I walked outside and calmly asked them to leave. Before coming outside, however, I had no idea what they came for. With a wife and baby at home to protect, and 3

strangers outside my window, imagine how frightened I could be at night. I was well within my right to defend my property by the way.

Given the above information, what would be the most appropriate manner to protect your family without aggression? We looked to whatever information was available at the time.

UNFORTUNATELY, the information posted on the city's website had the outdated fence ordinance listed (as of 11/2020). I (a physician) and the contractor used what was easily and readily available to put up a fence in accordance with the rules. I apologize for not having looked up the complete compendium of city ordinances or running it through the office of the City of Los Gatos, **but the contradiction listed on the website versus the updated ordinance handbook should not come at our loss.**

Our fence was built merely 1 short year after the amendment to this law that made our specific fence proportions no longer allowed. Unfortunately, it was nearly impossible to get this information online, despite extensive searches on our part prior to building the fence. The most available record that we could find stated the 6 ft rule, rather than the new, obscure to find 3 ft rule. We also tried to call numerous times and could not get this information. Perhaps a professional who works with county issues, such as yourselves, would easily be able to get this information, but for us lay people, it was extremely difficult, so much so that we did not even find out about the new regulation until after the complaint, and that is how we ended up in this predicament. That is why we are now asking for an exception.

8) The fence was placed solely for safety during a Covid pandemic. There are two people on our street who have made outlandish comments to my wife and I on our walks with our 19 month old daughter. One person said "surprised how good looking your daughter is." My wife and I are a proud interracial couple. Is it possible that this is motivated by racism or ignorance that we should be protected from?

- Lastly, there is significant hypocrisy in citing our home and not the other hundreds within a close proximity that violate the ordinance. If we were being chosen out of 250 high fences because of racism or ignorance, then those complaints should not be validated. Furthermore, a neighbor told us that someone was coercing people to complain about the fence.

Response to 18 ft setback vehicular gate rules:

1. Our property already had a row of trees in front, up to 7 feet tall that already decrease visibility coming out of our driveway.
2. Unlike all the other fences in the city that are already in place, a lot of which violate this ordinance, ours is perforated in design. It is completely see through with large holes in between the rails making it very easy to see the outgoing or incoming cars.
- 3.) In response to the setback - our gate opener was intentionally installed as to allow for the receiver to work from a distance of 1000 feet. This was deliberate in an attempt to avoid the dangers of stopping for an opening gate.

For the vehicular gate, if an 18 ft setback is required as a safety measure for the passing traffic, that is already a non-issue in our case, as the gate can be opened from hundreds of feet away, thus well before pulling up to it (and pulling in would never stop traffic). Please see the contractor's description of the remote and methods of operation attached:

- "Albano MD-1 Long Range Transmitter

I bought and connected the longest transmitter that could be found. It's placed near the car control panel and easy to use. There is only one button that sends a signal to the receiver and starts to open or close the gate. It can be programmed with most receivers quickly and easily. Its range of operation is up to 1000 feet. Link with manufacturer's description here (<https://www.northshorecommercialdoor.com/almdloragado.html>)

If changing the transmitter is not an option, REIGN XRE-100 relay Extender can be purchased. There are 2 transmitters included in the kit (manual attached) (link included below) (<https://www.northshorecommercialdoor.com/transmitter-solutions-tx-100.html>)

This device can work with a range of up to 500 feet as it described in specification. Range: ½ miles through obstruction. It sends a signal to retransmit from the opener to the gate through these 2 extenders."

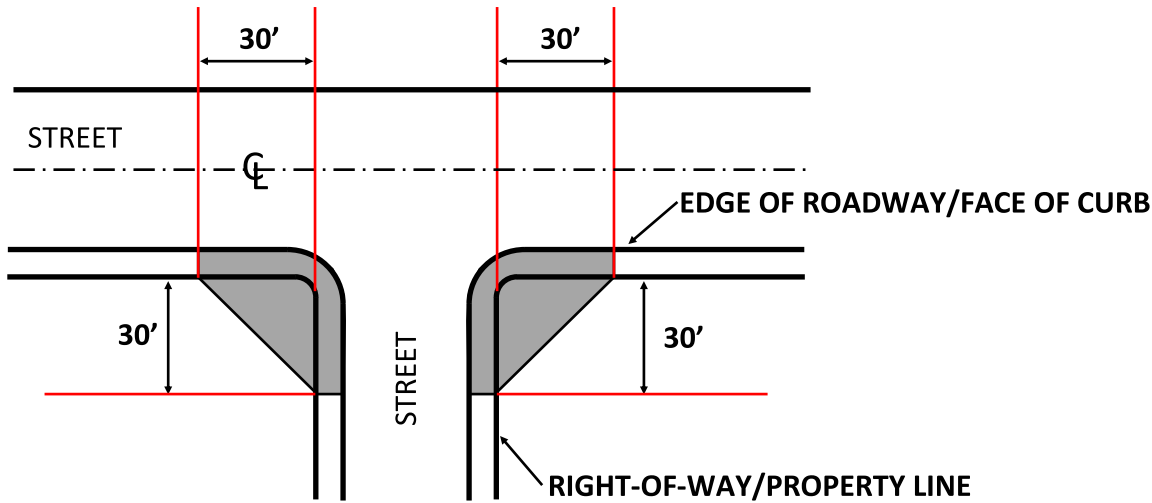
In the manufacturer's description, it is clear that with the devices described above, there is plenty of time to open the gate while driving to it from a long range.

4.) As a compromise, we are willing to leave the gate open at all hours during the day to avoid conflicting with any regulations. The gate is primarily in place to protect from nighttime intruders.

5.) Our home is uniquely placed amid commercial properties. We share a wall with a large chiropractor/dental office, are directly across a large retirement complex and two shopping centers. It is also directly on blossom hill road. Not a small neighborhood or side street as to create a visual problem with the "character of the neighborhood". We don't exist in such a setting.

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CORNER SIGHT TRIANGLE

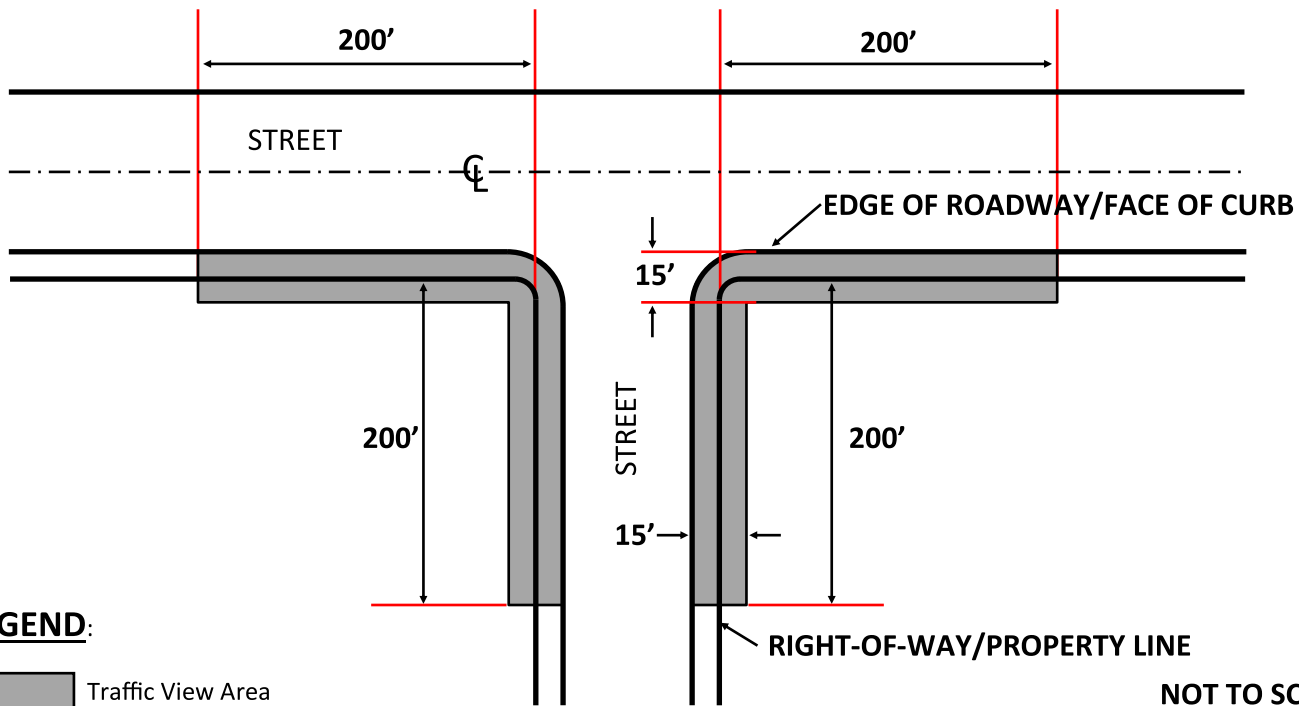


LEGEND:

 Corner Sight Triangle

NOT TO SCALE

TRAFFIC VIEW AREA

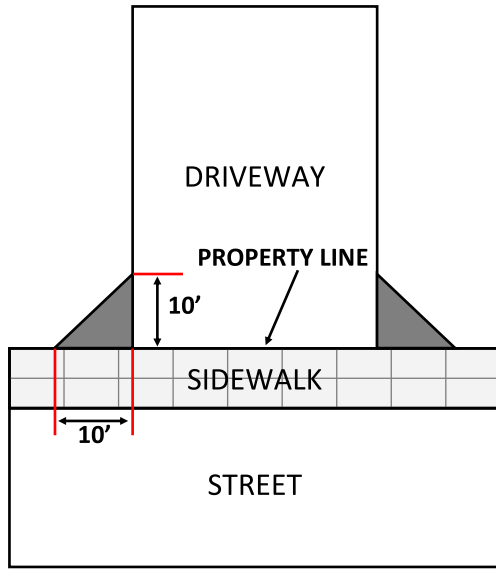


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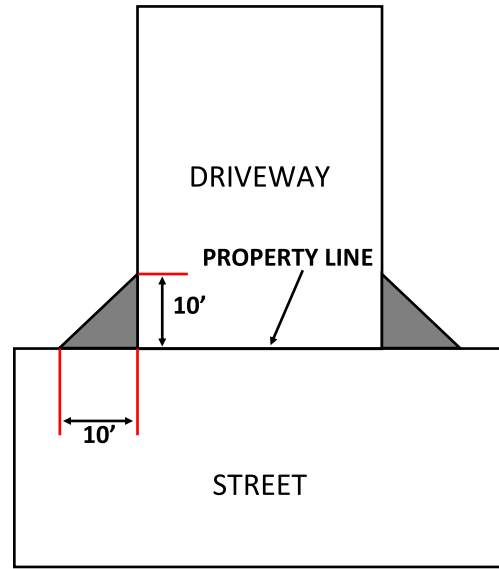
 Traffic View Area

NOT TO SCALE

DRIVEWAY VIEW AREA



Sidewalk Example



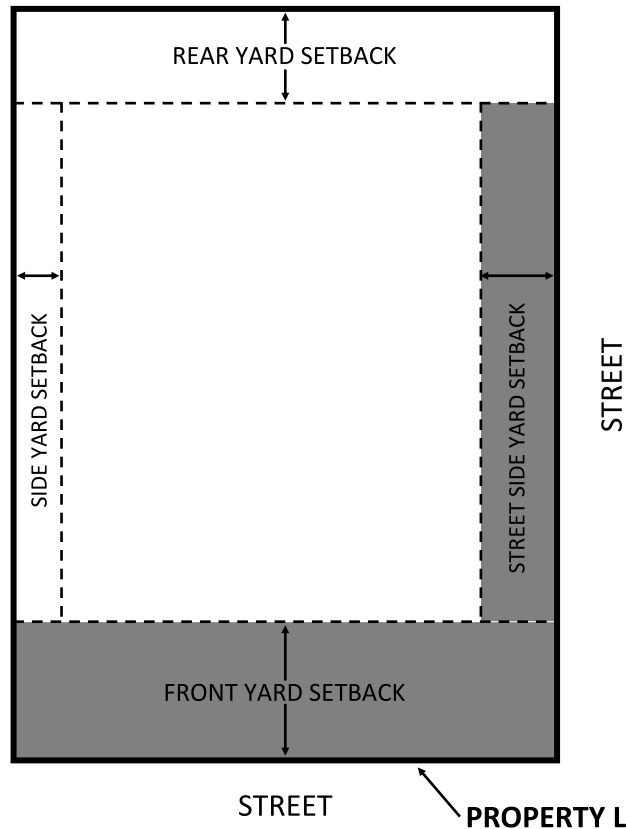
No Sidewalk Example

LEGEND:

 Driveway View Area

NOT TO SCALE

FRONT AND STREET SIDE YARD AREA



LEGEND:

 Front and Street Side Yard Area

NOT TO SCALE

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