

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 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 AND REMANDING THE MATTER TO THE PLANNING COMMISSION FOR
FURTHER CONSIDERATION.**

**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 remanded to the Planning Commission for further consideration.

2. The decision does not constitute a final administrative decision and the applications will be returned to Planning Commission for further consideration.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 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: _____

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