



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 6/14/2023

ITEM NO: 2

DESK ITEM

DATE: June 13, 2023
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 an Automated Vehicular Gate Exceeding the Maximum Height and with Reduced Setbacks on Property Zoned R-1:8. **Located at 380 Blackwell Drive.** APN 424-12-027. Categorically Exempt Pursuant to CEQA Guidelines Section 15303 (e): New Construction or Conversion of Small Structures. Fence Height Exception Application FHE-23-002. PROPERTY OWNER: Larry Cesnik and Martha Johnson. APPELLANT: Larry Cesnik. APPLICANT: Ramin Zohoor. PROJECT PLANNER: Sean Mullin.

REMARKS:

Exhibit 11 includes additional justification for the vehicular gate from the appellant.

The following information is provided in response to Planning Commissioner questions regarding the appeal.

1. Is it feasible for the homeowner to submit an application for reasonable accommodation based on his disabled son and for this hearing to be continued for a period of time to allow him to do so?

STAFF RESPONSE: An application for reasonable accommodation is a separate application independent of the application for the fence height exception. The reasonable accommodation application has its own set of application requirements and is decided upon by the Community Development Director. The Planning Commission's action on the appeal of the denial of the fence height exception application would have no impact on the property owner's ability to apply for reasonable accommodation in the future.

2. Is there a written report or memorandum from Public Works concerning the impairment of the view caused by the excessive gate height of one-foot and three-inches?

PREPARED BY: SEAN MULLIN, AICP
Senior Planner

Reviewed by: Planning Manager and Community Development Director

REMARKS (continued):

STAFF RESPONSE: The Town's Senior Engineer reviewed the proposed fencing and found that the gate would need to be set back a minimum of 18 feet from the edge of the adjacent street (face of curb) because of the driveway's location near a busy street and the determination that added queue time of cars waiting to enter the property is considered a nuisance and unnecessary risk.

3. Why are certain portions of the fence deemed existing nonconforming, but not the gate?

STAFF RESPONSE: Pursuant to Section 29.40.0325 of the Town Code, all fences, gates, etc. existing on the effective date of the ordinance are exempt from the regulations and may be maintained and/or replaced in kind. The existing nonconforming portions of fencing and gates on the property existed prior to effective date of the current fence regulations in September 2019. The gate that is the subject of this appeal was constructed after the new fence regulations went into effect.

4. Is there data on the traffic load on Blackwell?

STAFF RESPONSE: Traffic volume data was not gathered for analysis of the fence height exception application. This level of review is not typical for this type of application.

EXHIBITS:

Previously received with the June 22, 2022, Staff Report:

1. Location Map
2. Required Finding
3. Recommended Conditions of Approval if Appeal is Granted
4. Administrative Warning/Citation VL-22-465, dated September 9, 2022
5. Exception Request – Letter of Justification
6. Fence Height Exception Denial Letter, dated March 6, 2023
7. Appeal of the Community Development Director Decision, received March 8, 2023
8. Annotated Site Plan Prepared by Staff
9. Public Comments received before 1100 a.m., Friday June 9, 2023
10. Project Plans

Received with this Desk Item Report:

11. Additional Justification for Vehicular Gate from the Appellant