

**PLANNING COMMISSION – November 13, 2024**  
**DRAFT CONDITIONS OF APPROVAL**

**108 Westchester Drive**  
**Fence Height Exception FHE-24-003**

**Consider an Appeal of a Community Development Director's Decision to Deny a Fence Height Exception Request for the Construction of a Six-Foot Tall Fence Within a Required Street Side Setback and Traffic View Area on Property Zoned R-1:8. Located at 108 Westchester Drive. APN 523-36-037. 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. Fence Height Exception Application FHE-24-003.**

**PROPERTY OWNER/APPLICANT/APPELLANT: Parul Upadhyaya & Deepak Pandey.**  
**PROJECT PLANNER: Suray Nathan.**

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 and in substantial compliance with the approved plans. Any intensification beyond this authorized use requires a Conditional Use Permit amendment.
2. FENCE MODIFICATION: The fence shall be modified to comply with the requirements and limitations of Section 29.40.0315 regarding fences located in a required driveway view area.
3. EXPIRATION: The 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 per Section 29.20.335 of the Town Code. Reasonable extensions of time not exceeding one year may be granted upon application, and can be granted if approved by the deciding body prior to the expiration date. Therefore, it is recommended that applications for a time extension be filed with the Community Development Department at least 60 days prior to the expiration date of the approval.
4. TOWN INDEMNITY: Applicants are notified that Town Code Section 1.10.115 requires that any applicant who receives a permit or entitlement (“the Project”) from the Town shall defend (with counsel approved by Town), indemnify, and hold harmless the Town, its agents, officers, and employees from and against any claim, action, or proceeding (including without limitation any appeal or petition for review thereof) against the Town or its agents, officers, or employees related to an approval of the Project, including without limitation any related application, permit, certification, condition, environmental determination, other approval, compliance or failure to comply with applicable laws and regulations, and/or processing methods (“Challenge”). Town may (but is not obligated to) defend such Challenge as Town, in its sole discretion, determines appropriate, all at applicant’s sole cost and expense.

Applicant shall bear any and all losses, damages, injuries, liabilities, costs, and expenses (including, without limitation, staff time and in-house attorney's fees on a fully-loaded basis, attorney's fees for outside legal counsel, expert witness fees, court costs, and other litigation expenses) arising out of or related to any Challenge ("Costs"), whether incurred by Applicant, Town, or awarded to any third party, and shall pay to the Town upon demand any Costs incurred by the Town. No modification of the Project, any application, permit certification, condition, environmental determination, other approval, change in applicable laws and regulations, or change in such Challenge Town, in its sole discretion, determines appropriate, all at the applicant's sole cost and expense. No modification of the Project, any application, permit certification, condition, environmental determination, other approval, change in applicable laws and regulations, or change in processing methods shall alter the applicant's indemnity obligation.