

Draft Resolution to be modified by Town Council deliberations and direction.

DRAFT RESOLUTION 2024-__

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
DENYING AN APPEAL OF THE PLANNING COMMISSION DECISION TO DENY A FENCE
HEIGHT EXCEPTION REQUEST FOR CONSTRUCTION OF A SIX-FOOT TALL FENCE
LOCATED WITHIN THE REQUIRED FRONT YARD SETBACK, STREET SIDE YARD
SETBACK, AND CORNER SIGHT TRIANGLE ON PROPERTY ZONED R-1:8.**

**APN 424-23-084
FENCE HEIGHT EXCEPTION APPLICATION: FHE-23-005
PROPERTY LOCATION: 124 GARDEN HILL DRIVE
PROPERTY OWNER: RUSHIKESH KULKARNI
APPELLANT/APPLICANT: MARTIN LETTUNICH**

WHEREAS, on August 4, 2023, the Town issued an administrative warning for a code violation at 124 Garden Hill Drive for an unpermitted six-foot tall fence at the corner of Garden Hill Drive; and

WHEREAS, on September 7, 2023, the property owner applied for an exception to the Town’s fence regulations for the unpermitted six-foot tall fence at the corner of Garden Hill Drive; and

WHEREAS, on September 27, 2023, the Town denied the exception request because the findings listed in Town Code Section 29.40.0320 could not be made; and

WHEREAS, on October 5, 2023, the decision of the Community Development Director to deny the exception request was appealed to the Planning Commission; and

WHEREAS, on November 8, 2023, the Planning Commission held a duly-noticed public hearing and considered an appeal of the Community Development Director denial of an exception to the Town’s fence regulations for an unpermitted six-foot tall fence in the required front yard setback, street side yard setback, and traffic view area at the corner of Garden Hill Drive; and

WHEREAS, on November 8, 2023, the Planning Commission denied the appeal, upholding the Community Development Director denial of the exception request; and

WHEREAS, on November 17, 2023, the appellant, an interested person, filed a timely appeal of the decision of the Planning Commission; and

WHEREAS, this matter came before the Town Council for public hearing on December 19, 2023, and was regularly noticed in conformance with State and Town law; and

WHEREAS, on December 19, 2023, the Town Council continued the public hearing to a date certain of January 16, 2024; 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 16, 2024, along with any and all subsequent reports and materials prepared concerning this application; and

WHEREAS, the Town Council was unable to make the findings required to grant an appeal of a decision of the Planning Commission, in accordance with Town Code section 29.20.275, with the Town Council finding the following:

1. There was not an error or abuse of discretion by the Planning Commission; and
2. The Planning Commission decision is supported by substantial evidence in the record.

NOW, THEREFORE, BE IT RESOLVED:

1. The appeal of the decision of the Planning Commission decision to deny an exception the Town's fence regulations is denied.

2. 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 16th day of January 2024, 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: _____

DRAFT

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