



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 05/28/2025

ITEM NO: 2

DATE: May 23, 2025
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Consider an Appeal of a Community Development Director Decision to Deny a Fence Exception Request for an Existing Fence Partially Located in the Town's Right-of Way and Exceeding the Height Limitations within the Required Front Yard and Street-Side Yard Setbacks on Property Zoned R-1D. **Located at 10 Charles Street.** APN 532-36-022. Categorically Exempt Pursuant to CEQA Guidelines Section 15303: New Construction or Conversion of Small Structures. Fence Height Exception Application FHE-23-001. Property Owner/Applicant/Appellant: Firouz Pradhan. Project Planner: Sean Mullin.

BACKGROUND:

On March 12, the Planning Commission considered the appeal of a Community Development Director decision to deny a fence height exception request for an existing fence partially located in the Town's right-of way and exceeding the height limitations within the required front yard and street-side yard setbacks on property zoned R-1D, located at 10 Charles Street. The Planning Commission received the staff report, testimony from the applicant, input from the public, and voted unanimously to continue the matter to the April 23, 2025 meeting with the following direction to the applicant:

- Address the right-of-way and safety issues created by the fence;
- Redesign the fence at the corner of Los Gatos Boulevard and Charles Street to adhere to the Corner Sight Triangle standards to staffs' approval;
- Redesign the fence near the driveway serving 264 Los Gatos Boulevard to address sight and safety concerns; and
- Any approval carry the conditions that there be no changes to the materials or solidness of the fence and that there be no plantings allowed along the fence.

On April 23, 2025, staff recommended that the Planning Commission continue this matter to a date certain of May 28, 2025, to allow the applicant additional time to prepare a response to

PREPARED BY: Sean Mullin, AICP
Planning Manager

Reviewed by: Community Development Director

the Commission's direction of March 12, 2025. A member of the public pulled this item from the Consent Calendar and provided comments to the Commission. The Commission then continued this matter to the May 14, 2025 meeting.

On May 14, 2025, staff recommended that the Commission continue this matter to the May 28, 2025 meeting due to the applicant's previously arranged travel plans. The Commission continued this matter to the May 28, 2025 meeting.

DISCUSSION:

The subject property is located at the corner of Charles Street and Los Gatos Boulevard. The Town Code limits the height of fences, walls, trees, and shrubs to three feet when located in a required front and street side setbacks; corner sight triangle; driveway view area; or traffic view area. The subject property is encumbered by all four of these areas. Exhibit 16, prepared by staff, demonstrates the interaction of the various areas on the subject property to identify the portions of the property where a fence is limited to a maximum height of three feet. The entirety of the existing fence is located in areas limiting its height to three feet. Additionally, portions of the fence are located in the Charles Street right-of-way.

In response to some of the discussion at the Planning Commission meetings of March 12, 2025 and April 23, 2025, staff contacted the Los Gatos-Monte Sereno Police Department and requested any record of collisions occurring at the corner of Charles Street and Los Gatos Boulevard within the last year. Police records for the last year include one reported collision at this intersection.

As discussed below, the applicant submitted two letters that present two separate options for consideration by the Planning Commission.

May 19, 2025 Letter

Exhibit 17 includes a letter from the applicant dated May 19, 2025. This letter details the applicant's efforts to address the Planning's Commission's direction. Specifically, the applicant indicates that they met with neighbors and Town staff to discuss modifications to the fence. The option presented in Exhibit 17 proposes to maintain the fence at the current height, design, and location with two modifications:

1. Corner of Los Gatos Boulevard and Charles Street – As shown in Exhibit B of the May 19, 2025 letter, the fence would be modified with the intent of meeting the corner sight triangle as discussed with the Town Engineer. The portions of existing fence located in the triangular area at the intersection having sides 30 feet in length as measured from the face of the curbs on Los Gatos Boulevard and Charles Street would be removed and a new matching portion constructed along the hypotenuse of the triangle. This modification would improve visibility through the corner. Staff notes that the proposed modification would not

meet the specific requirements of the definition of corner sight triangle provided in Town Code Sections 26.10.065 and 29.40.0310, which require the dimensions of the triangle to be measured from the intersecting property lines rather than the face of the curbs.

2. Adjacent to 264 Los Gatos Boulevard – As shown in Exhibit C of the May 19, 2025 letter (Exhibit 17), the fence adjacent to the driveway serving the adjacent property at 264 Los Gatos Boulevard would be modified with the intent of meeting the driveway view area as discussed with the Town Engineer. The applicant proposes to eliminate the portions of the fence located within a seven-foot by eight-foot triangle measured from the back of the sidewalk and a new matching portion constructed along the hypotenuse of the triangle. Staff notes that the proposed modification would not meet the specific requirements of the definition of driveway view area provided in Town Code Section 29.40.0310, which requires a triangle with 10-foot dimensions.

Through the option presented in the May 19, 2025 letter (Exhibit 17), the applicant does not propose a height reduction. The proposed modifications would partially address the safety concerns created by fencing located in the corner sight triangle and driveway view areas; however, the modifications would not adhere to the dimensions required by the Town Code. With the modifications, the fence would remain in the required front and street side setbacks; corner sight triangle; driveway view area; and traffic view area at a height exceeding the maximum allowed three feet. Additionally, portions of the fence located along Charles Street would remain in the right-of-way and the applicant indicates that they are willing to enter into the appropriate agreements with the Town to maintain private improvements in the right-of-way.

May 22, 2025 Letter

Exhibit 18 includes a second letter from the applicant dated May 22, 2025. This letter responds to information provided by staff in an email following up on a meeting with the applicant and clarifying the proper dimensions for the corner sight triangle and driveway view area. In the letter, the applicant presents a second option (Exhibit G), which maintains the current height and design of the fence with the following modifications:

- The fence would be moved further away from Los Gatos Boulevard. The letter provides three separate distances for the proposed relocation: three feet; three feet, six inches; and three feet, nine inches. The applicant confirmed to staff that the intent is to move the fence three feet, nine inches further away from Los Gatos Boulevard;
- Trees planted in front of the fence would be relocated behind the relocated fence;
- A portion of the relocated fence at the corner of Los Gatos Boulevard and Charles Street would be set at an angle to connect to the fence along Charles Street to address the sight lines at the corner; and

- A portion of the relocated fence adjacent to 264 Los Gatos Boulevard would be set at an angle to connect to the fence along the shared property line to address the sight lines at the neighbor's driveway.

Through the option presented in the May 22, 2025 letter (Exhibit 18), the applicant does not propose a height reduction. The proposed modifications would partially address the safety concerns created by fencing located in the corner sight triangle and driveway view areas; however, the fence would remain in the required front and street side setbacks; corner sight triangle; driveway view area; and traffic view area at a height exceeding the maximum allowed three feet. Additionally, portions of the fence located along Charles Street would remain in the right-of-way and the applicant indicated that they are willing to enter into the appropriate agreements with the Town to maintain private improvements in the right-of-way.

PUBLIC COMMENTS:

Public comments received between 11:01 am, Wednesday, April 23, 2025 and 11:00 am, Friday, May 23, 2025 are included as Exhibit 19.

CONCLUSION:

A. Summary

The property owner is requesting that the Planning Commission grant their appeal of the Community Development Director's decision to deny an exception to the fencing regulations, approving the exception for a fence partially located in the Town's right-of-way and exceeding a height of three feet located in the front and street-side yard areas, traffic view area, corner sight triangle, and the Town's right-of-way. The applicant responded to the March 12, 2025, direction of the Planning Commission with two options for modifications to the fence as described above and shown in Exhibits 17 and 18.

B. Recommendation

Staff recommends that the Planning Commission deny the appeal and uphold the Community Development Director decision to deny the requested exception due to safety and Town liability issues created with public improvements located in the Town's right-of-way.

C. Alternatives

Alternatively, the Commission can:

1. Continue the matter to a date certain with specific direction;
2. Grant the appeal and approve the fence height exception with the findings in Exhibit 2 and the modified draft conditions provided in Exhibit 15; or
3. Grant the appeal with additional and/or modified conditions.

EXHIBITS:

Previously received with the March 12, 2025, Staff Report:

1. Location Map
2. Required Findings
3. Recommended Conditions of Approval if Appeal is Granted
4. Administrative Warning VL-22-578
5. Fence Height Exception Request – Letter of Justification
6. Email between Planning and Engineering staff
7. Annotated Site Plan Prepared by Staff
8. Fence Height Exception Denial Letter
9. Appeal of the Community Development Director Decision
10. Letter of Justification for Appeal
11. Traffic View Area Diagrams

Previously received with the April 23, 2025, Addendum Report:

12. Public Comments received between 11:01 a.m., Friday, April 18, 2025, and 11:00 a.m., Tuesday, April 22, 2025

Previously received with the April 23, 2025, Desk Item Report:

13. Comments received from the applicant
14. Public Comments received between 11:01 a.m., Tuesday, April 22, 2025, and 11:00 a.m., Wednesday, April 23, 2025

Received with this Staff Report:

15. Modified Recommended Conditions of Approval
16. Regulated areas exhibit by staff
17. Applicant response letter, dated May 19, 2025
18. Applicant response letter, dated May 22, 2025
19. Public comments received between 11:01 a.m., Wednesday, April 23, 2025 and 11:00 a.m., Friday, May 23, 2025

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