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A P P E A R A N C E S:

Los Gatos Planning Commissioners:	Kendra Burch, Vice Chair Jeffrey Barnett Susan Burnett Steve Raspe Rob Stump
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P R O C E E D I N G S:

VICE CHAIR BURCH: We will now move onto the Public Hearings, and now our first item is going to be Item 3, previously from the Consent Calendar.

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 streetside yard setbacks on property zoned R-1D, located at 10 Charles Street, APN 532-36-022. Project is categorically exempt pursuant to CEQA Guidelines Section 15303: New Construction or Conversion of Small Structures. Fence Height Exception Application FHE-23-001. The Property Owner/Applicant is Firoz Pradhan, and the project planner is Sean Mullin, who I understand is not available this evening. Who will be giving the Staff Report?

DIRECTOR PAULSON: Thank you. There is no Staff Report. This item is being requested to be continued so that the Applicant can address the direction from the previous Planning Commission meeting. Additionally, as in the Desk Item, they're not available this evening.

VICE CHAIR BURCH: So, we are only pulling this to allow for public testimony?

1 DIRECTOR PAULSON: You have two speakers, and I
2 don't know if the Town Attorney has any additional comments
3 on the speaking now or at the future meeting.

4 ATTORNEY WHELAN: One option would be for the
5 Chairperson to ask the speakers if they're able to come to
6 the next meeting. Has it been scheduled for a future
7 meeting yet?

8 DIRECTOR PAULSON: I think they are potentially
9 available for the next meeting, but they wish to speak this
10 evening.

11 ATTORNEY WHELAN: Okay. If they're available, my
12 recommendation is they be asked to come to the meeting at
13 which this will be discussed so that everybody can have the
14 benefit of their comments.

15 VICE CHAIR BURCH: This is a little new to me.
16 So, in that case we do have two speaker cards; I believe
17 it's Kevin Chesney and Kent Anderson. Is that acceptable
18 that we hold your testimony until...

19 (Inaudible comment from the audience.)

20 VICE CHAIR BURCH: All right.

21 ATTORNEY WHELAN: There is no requirement to open
22 the public hearing.

23 (Inaudible comment from the audience.)

1 ATTORNEY WHELAN: If it is your position that
2 you're not available for the meeting at which this will be
3 discussed, you're welcome to give testimony tonight.

4 VICE CHAIR BURCH: Okay. I'm fine, let's go ahead
5 and allow that. So, all right, we're going to open the
6 public testimony for Item 3, and I have a speaker card. The
7 first one I have is, I believe, Kevin Chesney.

8 KEVIN CHESNEY: Hello. As you remember, I am
9 Kevin Chesney, the owner of 2 Charles Street that has owned
10 the property since 1994 when I bought the property
11 (inaudible), and also I bought it with respect to the
12 fencing that was there, including 302 Charles Street
13 (inaudible). I expressed my concerns last time, and I'm
14 sorry I wasn't as articulate (inaudible) and for that I
15 apologize.
16

17 I also, as my neighbor, Kent Anderson, who will
18 speak after me, was unaware of the violation that the Town
19 raised with respect to the fence until the appeal. We kept
20 trying to work collegially with our neighbor to address my
21 concerns. If you look at what we just both presented, I
22 have text messages back too 2022 raising my concerns,
23 telling him that I thought it was unsafe, but he built his
24 fence.
25

1 Both Kent and I objected, as well as our
2 neighbor, Matthew Daily, who actually is traveling to
3 Thailand or he would be here today, but he had had an
4 accident, and yet Firoz said nobody was concerned about the
5 fence that he created for construction, but we were all
6 being neighborly, we were all being kind, we were all
7 trying to support him.

8 But it is a clear example, in my mind, of
9 building something that an educated contractor knew wasn't
10 compliant, and then asking everybody for forgiveness, which
11 is quite annoying given he's an educated contractor. He
12 knows the laws, he knows what is required of him, he knew
13 it when he bought the property.

14 With respect to Firoz's letter to Mr. Mullin to
15 justify the exception, I would comment on several of his
16 points.

17 First, he states that Charles Street is a quiet
18 dead-end street with only a handful of residents. I wish
19 his assessment of the situation were true, but it's not
20 that quiet in fact, and there is actually a No U-Turn on
21 that street based upon the fact that most parents try to
22 use that as a way to circumvent their ability to get to Van
23 Meter or Fisher. That is one of the most heavily
24 transcribed areas of kids walking back and forth. You have
25

1 no idea. You need to be there at 8:00 o'clock in the
2 morning, or 7:30; it's dangerous.

3 Second, he states the stop sign ensures our
4 safety, but we cannot see it properly when we proceed to
5 within the crosswalk. We have to get out into the crosswalk
6 to actually see. I can see fine to the right, because my
7 neighbor at 302 Charles Street, which is Kent, has a 45-
8 degree angle.

9 VICE CHAIR BURCH: I'm afraid that's your time.

10 KEVIN CHESNEY: Okay, so fine.

11 VICE CHAIR BURCH: Are there any questions
12 though?

13 COMMISSIONER RASPE: Chair, one question for Mr.
14 Chesney. First of all, thank you for appearing in the first
15 instance and again this evening. Our hope last time was
16 that the neighbors would come together, talk about the
17 issues, and see if there was a resolution. My only question
18 to you is has there been a discussion between you and the
19 Applicant since our last meeting?

20 KEVIN CHESNEY: One discussion to meet next week,
21 and this has been going on. As Sean Mullin says, we keep
22 kicking the can down the road, and it's frustrating.

23 COMMISSIONER RASPE: I appreciate it.

24 KEVIN CHESNEY: Terribly frustrating.

1 VICE CHAIR BURCH: Any other questions? I do have
2 one. You were just mentioning the visibility, that you
3 can't see till you're in the crosswalk. Are you trying to
4 say like I need to be halfway through the street, or like
5 at the corner?

6 KEVIN CHESNEY: I will be more specific.

7 VICE CHAIR BURCH: I would like that, please.

8 KEVIN CHESNEY: I have to be out into the
9 crosswalk, which means I have to go into an area that is
10 dangerous for the students who are walking with their
11 parents. Secondly, I just talked to Michelle Huntley, who
12 spoke, which is the neighbor on the other side, and she
13 said to me just a few minutes ago that she gets out of her
14 car and looks over so she can tell whether or not there are
15 any issues. It's appalling.

16 VICE CHAIR BURCH: Okay, thank you so much.

17 KEVIN CHESNEY: It's absolutely appalling.

18 COMMISSIONER BARNETT: If I can ask you one
19 question. Have you observed any accidents involving any
20 other cars of pedestrians?
21

22 KEVIN CHESNEY: Per my last situation, Matthew
23 Daily actually had an accident himself, 5 Charles Street,
24 based upon the prior fence. Kent will speak, and he will
25 say that he witnesses accidents at that intersection

1 probably monthly. It is a very, very difficult
2 intersection.

3 COMMISSIONER BARNETT: Thank you for that.
4 Appreciate your comment.

5 VICE CHAIR BURCH: Any other questions? Thank you
6 very much.

7 KEVIN CHESNEY: Thank you.

8 VICE CHAIR BURCH: All right, Kent Anderson.
9 You'll have three minutes, Mr. Anderson.

10 KENT ANDERSON: Okay, thank you. My name is Kent
11 Anderson. I live right across the street from Firoz
12 actually, and I work right in that office for the most
13 part. I kind of moved recently, but I did...I worked in that
14 office. I would witness an accident there almost once a
15 month, to be honest with you.

16 That's one of the busiest places in Los Gatos.
17 It's right on Los Gatos Boulevard and Highway 9. Everybody
18 who comes downtown, or half of the people who come
19 downtown, exit onto 17 right there, and that's the one area
20 where it goes from one lane into two lanes, because there's
21 a turn lane there, people are going through there fast
22 because they want to make the light, they want to get onto
23 the freeway.
24
25

1 Also, we've got Van Meter, we've got Fisher,
2 going down there every single day. We also have Mariposa; I
3 guess they're speaking here as well, they're just around
4 the corner. So, we've got kids that go by there from 8:00
5 o'clock to 8:30, probably hundreds of them, and it's really
6 not fair.

7 You can't stop right at the stop sign there, you
8 have to go past the line where the stop sign says stop in
9 order to see around the corner, which is into the
10 crosswalk, and it's almost too late. This is a serious
11 hazard.
12

13 In addition to that, his lattice work doesn't
14 meet code. It can only be 20% obscured; his is probably
15 doubled that.

16 In addition to that, he's planted a bunch of
17 bushes alongside. It's made an impossible situation and I
18 really think this needs to be denied.

19 It needs to be cut down to 3', all the bushes
20 there need to be cut down to 3'. There's absolutely no
21 reason for this.

22 This house isn't really on Charles Street; they
23 just changed the address with this last owner. It's really
24 268 Los Gatos Boulevard, and that's the way it's been
25

1 forever, so really hope you guys will just deny it flat
2 out.

3 We do have a meeting set up with him, but it's
4 the same nonsense I've heard over time. He wants to take
5 out a couple of pieces of lattice or something that's not
6 really going to make that much difference. That's really
7 all I have to say. Thank you, guys, for listening. I
8 appreciate it.

9
10 VICE CHAIR BURCH: Any questions?

11 COMMISSIONER STUMP: Can I ask one question of
12 Staff. In looking back at the meeting minutes from March
13 12th basically to see if that time the motion was that the
14 Appellant confer with Staff with respect to addressing the
15 right-of-way issue and the safety issue, and that it be
16 brought back to the Planning Commission if Staff is not
17 prepared to decide on its own. So, do we know what that
18 status is as far as the action?

19 DIRECTOR PAULSON: We do not.

20 COMMISSIONER STUMP: So, to be continued. Thank
21 you.

22 VICE CHAIR BURCH: All right, thank you, Mr.
23 Anderson.

24 KENT ANDERSON: Thank you.
25

1 VICE CHAIR BURCH: All right, I will close the
2 public portion of this item and look to my Commissioners
3 for any comments, questions of Staff, or a motion.

4 COMMISSIONER RASPE: I'll go ahead, Chair; I'll
5 begin. I was prepared to have this on the Consent Calendar,
6 and I'm actually glad it came off. I'm glad to see that the
7 neighbors are working towards it and are alerting us to the
8 potential issues here. I'm loath to render a judgement on
9 it tonight, because the Applicant isn't available, but I'm
10 also hesitant to continue this much longer given that there
11 are some apparent safety issues.
12

13 So, I would move to continue this to the first
14 available date, and a date certain, so that we can resolve
15 this as quickly as possible.

16 VICE CHAIR BURCH: Thank you. Anyone else?
17 Commissioner Barnett.

18 COMMISSIONER BARNETT: Was that a motion? If so,
19 I'll second.

20 COMMISSIONER RASPE: I'll just ask Staff; do we
21 have a date available that we can set it tonight?

22 DIRECTOR PAULSON: We probably have a date
23 available, but we don't know if the Applicant is available.
24

25

1 COMMISSIONER RASPE: Can I ask that we set it for
2 that date. We'll just set it for that date, and let the
3 Applicant object if they're unable to do it.

4 DIRECTOR PAULSON: That would be May 14th rather
5 than May 28th.

6 VICE CHAIR BURCH: Second?

7 COMMISSIONER BARNETT: Yes, absolutely.

8 VICE CHAIR BURCH: All right, we have a motion.
9 Any other comments? All right, then all in favor. Passes
10 unanimously to a date certain of May 14th. I assume there
11 are no appeal rights or anything on this for us to bring
12 up.
13

14 ATTORNEY WHELAN: No.

15 VICE CHAIR BURCH: Thank you.

16 DIRECTOR PAULSON: One second. Why can't we do
17 the 14th?

18 FEMALE: The 14th is no longer available due to
19 legal ad requirements. You would have to do May 28th to
20 abide by the legal ad requirement.

21 DIRECTOR PAULSON: This doesn't require a legal
22 ad, because we're continuing it to a date certain.

23 FEMALE: Okay.

24 (END)
25