

DRAFT RESOLUTION

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
DENYING AN APPEAL OF THE DECISION OF THE PLANNING COMMISSION
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 AND UPHOLDING THE DENIAL.**

APN 532-36-022

FENCE HEIGHT EXCEPTION APPLICATION: FHE-23-001

PROPERTY LOCATION: 10 CHARLES STREET

APPELLANT/PROPERTY OWNER/APPLICANT: FIROZ PRADHAN

WHEREAS, on November 11, 2022, the Town issued an Administrative Warning for a code violation at the subject property for construction of a fence exceeding height limitations within the required side yard area. In communication with staff, staff indicated that the Town Code offers an exception process that allows for deviation from the Town's requirements if the appropriate findings are made by the Community Development Director; and

WHEREAS, on January 10, 2023, the property owner applied for an exception to the Town's fence regulations for the construction of a fence that does not comply with the Town Code regulations for fences located in the required front and street-side yard areas, as well as the traffic view area and corner sight triangle. In reviewing the application, staff noted that a portion of the fence was located in the Town's right-of-way; and

WHEREAS, on March 23, 2023, the Community Development Director denied the Fence Height Exception application, unable to make the findings required by Town Code Section 29.40.0320 for granting an exception. Additionally, the Town could not support the fence remaining in the Town's right-of-way; and

WHEREAS, on April 3, 2023, the appellant, an interested person, filed a timely appeal of the decision of the Community Development Director 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 front yard and street-side yard setbacks on property zoned R-1D, located at 10 Charles Street; and

WHEREAS, on March 12, 2025, the Planning Commission held a public hearing and considered an appeal of the decision of the Community Development Director 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 front yard and street-side yard setbacks on property zoned R-1D, located at 10 Charles Street. The Planning Commission continued the matter to a date certain with direction to the appellant; and

WHEREAS, on April 23, 2025, the Planning Commission considered public testimony and continued the matter to a date certain of May 14, 2025; and

ATTACHMENT

WHEREAS, on May 14, 2025, the Planning Commission continued the matter to a date certain of May 28, 2025; and

WHEREAS, on May 28, 2025, the Planning Commission held a public hearing and considered the appellant's response to their direction of March 12, 2025. The Planning Commission received the staff report, testimony from the applicant, and input from the public. The Planning Commission was unable to make the findings to grant the appeal and voted five-to-one to deny the appeal; and

WHEREAS, on June 9, 2025, the appellant, an interested person, filed a timely appeal of the decision of the Planning Commission to 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 front yard and street-side yard setbacks on property zoned R-1D, located at 10 Charles Street; and

WHEREAS, this matter came before the Town Council for public hearing on August 19, 2025, and was regularly noticed in conformance with State and Town law; 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 materials contained in the Council Agenda Report for their meeting on August 19, 2025, along with any and all subsequent reports and materials prepared concerning this application; and

WHEREAS, Town Code Section 29.20.295 provides that an appellant bears the burden of proof to demonstrate that there was error or abuse of discretion (including decisions that are not supported by substantial evidence in the record) by the Planning Commission.

NOW, THEREFORE, BE IT RESOLVED:

In accordance with Town Code section 29.20.295, the Town Council finds that:

1. The appellant has not demonstrated that the Planning Commission's decision to deny the Fence Height Exception application FHE-23-001 was in error or an abuse of discretion.
2. The appeal of the decision of the Planning Commission 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 front yard and street-side yard setbacks on property zoned R-1D, located at 10 Charles Street, is denied, and the application denial is upheld.
3. 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 19th day of August 2025, by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

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