



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 12/14/2022

ITEM NO: 1

**DRAFT
MINUTES OF THE PLANNING COMMISSION MEETING
NOVEMBER 9, 2022**

The Planning Commission of the Town of Los Gatos conducted a Regular Meeting on Wednesday, November 9, 2022, at 7:00 p.m.

This meeting was conducted utilizing teleconferencing and electronic means consistent with Government Code Section 54953, as Amended by Assembly Bill 361, in response to the state of emergency relating to COVID-19 and enabling teleconferencing accommodations by suspending or waiving specified provisions in the Ralph M. Brown Act (Government Code § 54950 et seq.). Consistent with AB 361 and Town of Los Gatos Resolution 2021-044, all planning commissioners and staff participated from remote locations and all voting was conducted via roll call vote.

MEETING CALLED TO ORDER AT 7:00 P.M.

ROLL CALL

Present: Chair Melanie Hanssen, Vice Chair Jeffrey Barnett, Commissioner Kylie Clark, Commissioner Kathryn Janoff, Commissioner Steve Raspe, and Commissioner Emily Thomas.
Absent: Commissioner Reza Tavana.

VERBAL COMMUNICATIONS

None.

CONSENT ITEMS (TO BE ACTED UPON BY A SINGLE MOTION)

1. **Approval of Minutes** – September 28, 2022
2. **300 Marchmont Drive**
Conditional Use Permit Application U-12-002
APNs 532-10-01 and 532-11-011
Applicant/Property Owner: Mark Silver/Hillbrook School
Project Planner: Jocelyn Shoopman

Annual Review of an Approved Conditional Use Permit for an Existing Private School (Hillbrook School) on Property Zoned HR-1.

Vice Chair Barnett announced that he would recuse himself from voting on Item 2, Hillbrook School at 300 Marchmont Drive of the consent calendar due to living in close proximity to the property.

MOTION: **Motion by Commissioner Janoff to approve adoption of the Consent Calendar. Seconded by Commissioner Clark.**

VOTE: **Motion passed unanimously with Vice Chair Barnett abstaining from voting on Item 2.**

PUBLIC HEARINGS

3. 755 Blossom Hill Road

Fence Height Exception Application FHE-21-003

APN 523-04-043

Applicant: Nina Guralnic

Property Owner: David and Ilana Kohanchi

Project Planner: Savannah Van Akin

Consider an Appeal of a Community Development Director Decision to Deny a Fence Height Exception Request for Construction of Six-Foot Tall Fencing Located Within the Required Front Yard Setback and Construction of a Vehicular Gate with Reduced Setbacks on Property Zoned R-1:10.

Savannah Van Akin, Assistant Planner, presented the staff report.

Opened Public Comment.

David and Ilana Kohanchi, Appellant

- Our home is in a commercial area. Directly in front of us is the Terraces of Los Gatos, to the right in the front is the King's Court Shopping Center, and directly to the right is a professional building. There is a lot of walking traffic and strangers, . Blossom Hill Road is a dangerous street with high-speed traffic. The fence is almost impenetrable by a car if one jumped the curb. Crime rates are going up in Los Gatos and our home was burglarized in the last few years, and a home down the street was burglarized within the last year as well. We have a three-year-old child and were shocked to learn we live close to approximately 200 sex offenders, one within a few homes of us. Our future business endeavors require assets on our property that would put us at a higher risk than other properties. No one from the Town was available when we moved to Los Gatos due to the pandemic, so we used losgatosca.gov, the only resource available to us, that said six feet and no setback for a fence, but that was all it said. Only one person has complained about the fence and we do not believe their concerns are valid.

Mark Jamieson

- I'm an acquaintance of the Kohanchis' and support the fence. I do not find the fence offensive, and the gate is open during the day. The only potential safety issue is if a truck had a delivery, but during the day the gate is open for deliveries, so I don't see anything that would block the driveway. We have woken up to find a stranger asleep in our garage. Perhaps there could be a compromise, such as removing the spikes, leaving the gate open during the day, and painting the gate to blend in more.

Steve Dozier

- I frequently drive by the subject property and find the fence to be well constructed, immaculate, it fits into the neighborhood, and I have no problem with it. I agree that perhaps there could be a compromise. I support the presence of the fence.

John Cellar

- Ordinances need to be applied uniformly or not applied at all. I used to live on the corner of Blossom Hill Road and it is very busy. There were two instances where cars left the road and came through the fence and onto our property. Commercial buildings surround the Kohanchis' home and it is important to consider the safety aspect of cars jumping the road and going through the fence.

Tony Bommarito

- I am well acquainted with the Kohanchis'. It sounds like they did what any reasonable person would do, which is to consult the Town's website, and it sounds like any reasonable person in their circumstances would have concluded that they were acting within the code. In fairness to the Kohanchis', they should be treated as someone who had built a fence before the code was changed.

Lee Quintana

- One of the reasons that Fence Ordinance was changed as to the setbacks in the front and side yards that front a street was to maintain the small town character of Los Gatos. I was shocked by that fence and felt it definitely changes the character of Los Gatos. Before I moved into my home the bay window was hit by a car, the tree in front was hit by a car, and my car was demolished by a speeder, but I don't have that kind of a fence and I never would, because it would be an affront to my neighbors. There must be another way to do this, such as replace the six-foot fence that is further in with a more substantial fence. The plans also show a lot of space inside the yard inside the existing fence that has a gate across it that would allow for more storage of cars. I have sympathy for the Appellants, but I believe the Town must be careful about the exceptions that it grants.

Keith Freeman

- I live next door to the Kohanchis. Over the years I've seen quite a few incidents on the street, and without that fence they are quite exposed to people walking by, accidents, and burglaries, so it makes sense to me that they would want to put up a fence in this particular area and I have no objections to it. I have no aesthetic problems with the fence, because it

is in such a commercial area and isn't out of character for that area, especially with the Terraces located across the street.

David Kohanchi, Appellant

- Regarding the comment about maintaining small town values, we are in a business area and fit into where we are. According to the Community Development Director there are thousands of violations and when it is that many it no longer makes sense to say that is the value of the Town. With respect to packages if the gate were closed, the gate is open from early in the morning to 9:00 p.m. or 10:00 p.m. at night, and it could be monitored via video if the Commission requires. On Blossom Hill Road Amazon trucks do not drive into driveways, and if the gate were closed there is a metal package and delivery system outside of the gate for this purpose. With respect to visibility, the gate was designed as a metal perforated fence to see through it, and the trees along block the view enough and they are grandfathered in.

Closed Public Comment.

Commissioners discussed the matter.

MOTION: **Motion by Commissioner Clark to deny an Appeal of a Community Development Director Decision to Deny a Fence Height Exception Request for 755 Blossom Hill Road. Seconded by Commissioner Thomas.**

VOTE: **Motion passed unanimously.**

4. **15475 Los Gatos Boulevard**

Conditional Use Permit Application U-21-005

Variance Application V-21-001

APN 424-19-065

Applicant: Mike Yao, Core State Group

Property Owner: Franchise Realty Interstate Corporation

Project Planner: Erin Walters

Requesting Approval of a Variance to Allow a Drive-Thru at an Existing Restaurant (McDonald's) and Modification to a Conditional Use Permit for a Drive-Thru Restaurant on Property Zoned CH.

Commissioner Thomas announced that she would recuse herself from participating in the public hearing for 15475 Los Gatos Boulevard because she lives in close proximity to the subject site.

Commissioner Clark announced that she would recuse herself from participating in the public hearing for 15475 Los Gatos Boulevard because she lives in close proximity to the subject site.

Erin Walters, Associate Planner, presented the staff report.

Opened Public Comment.

Mike Yao, Architect/Applicant

- McDonald's proposes to add a drive-thru in this location to meet the increasing demand for contactless ordering and provide the community the option to order food in a quicker and safer way. Customers who would benefit from drive-thru include those with limited time and mobility, single parents grabbing food on the go, healthcare professionals and trade workers working non-typical hours, and the elderly and disabled. Landscape screening is proposed and the volume of the outdoor menu speaker can be adjusted to address noise issues. A traffic impact queuing analysis was submitted and it is not expected that significant traffic issues would be created by the drive-thru. Any overflow traffic could spill into the rear of the property and would not cause blockage to entrances. The community supports the proposed drive-thru and 2,600 customers have signed a petition placed in the restaurant. Most businesses and residents around the restaurant are in favor of the drive-thru.

Dan Borba, Owner/Operator

- My wife and I have owned this McDonald's since 2016. I was the manager before that, and I have been involved with McDonalds for over 50 years. McDonald's owns the land, and as the franchisee I have a 20-year lease and run the restaurant, so this is not run by a large corporation. After our remodel three years ago a lot of customers asked for a drive-thru.

Guadalupe Vasquez

- I am a single father of two and commute from San Jose to bring my children to my parents in Los Gatos. Having a quick drive-thru in Los Gatos to get a quick meal for my kids and parents would be great and would cut time from my morning commute.

Kaelie Moran

- I am a mother of two and everyone in my house goes to McDonald's. A drive-thru would be welcomed based on the number of petition signers, and I don't believe it would change the character of the Town. With small children there are many occasions that it would be very helpful to just drive through the restaurant rather than going inside. My mother had knee replacement surgery and would have benefited from a drive-thru as well. I hope the variance can be approved for this location.

Ely Vega

- I work in Los Gatos as a medical assistant and having a drive-thru would benefit people who work in Los Gatos who have only a 30-minute lunch and need to grab something quick to eat. A drive-thru would be a really good idea.

Ruth

- I have three grandchildren and love taking them to McDonald's after school, but since it is cold now and I get sick a lot I would rather bring them through a drive-thru, which would be really helpful.

Mike Yao, Architect/Applicant

- We are requesting that the variance application for a drive-thru be approved, because it would provide access to all types of members of the Los Gatos community, as evidenced by the public comments. Currently McDonald's customers do not have the same access to convenience and the safety that Jack in the Box offers its customers, because they have a drive-thru. Since the pandemic, people have changed their views regarding eating inside restaurants and are more cautious, and providing a drive-thru would give them that healthier and safer option.

Dan Borba, Owner/Operator

- I get the feeling that a lot of the public wants the drive-thru. There used to be complaints about air pollution with respect to drive-thrus, but now I see a lot of electric cars, so that may not be an issue anymore. There is concern about noise pollution as well, but we have the ability to turn the speaker down, and walls around the speaker are planned so that almost no one in the residential area behind the restaurant would hear. Customers will get in and out in a minute-and-a-half.

Closed Public Comment.

Commissioners discussed the matter.

MOTION: **Motion by Commissioner Janoff** to approve a Variance to Allow a Drive-Thru Use at an Existing Restaurant and Modification of an Existing Conditional Use Permit for a Drive-Thru Restaurant on Property Zoned CH. And add a Condition of Approval to prohibit drive-thru queuing beyond the property line.
 Seconded by Commissioner Raspe.

Commissioner Janoff requested the motion be amended to include the language the Town Attorney provided in terms of the approval rationale regarding the property size for Variance Finding 1.

As required by Section 29.20.170 of the Town Code for granting a Variance application:

- (1) Because of special circumstances applicable to the property, including size, the strict application of this ordinance deprives such property of privileges enjoyed by other properties in the vicinity and under identical zone;

Given the large size of the property and its ability to accommodate the drive-thru queuing the strict application of the ordinance is depriving the property of a privilege that is enjoyed by other properties of the same size.

The seconder of the motion accepted the amendment to the motion.

VOTE: Motion passed unanimously.

Commissioners Thomas and Clark returned to the meeting.

OTHER BUSINESS

REPORT FROM THE DIRECTOR OF COMMUNITY DEVELOPMENT

Jennifer Armer, Planning Manager

- Town Council met on October 4, 2022, and considered and adopted a resolution confirming suspension of the Land Use and Community Design Elements of the 2040 General Plan as a result of the referendum on the two items qualifying for the ballot, and establishing that the 2020 General Plan Land Use and Community Design Elements will govern during the period of suspension.
- Town Council met on October 18, 2022, and discussed the next steps for the General Plan referendum and Housing Element.
- Town Council met on November 1, 2022, and considered a number of planning related items, including: new building and fire codes and associated reach codes; a story pole exception request for a project on Winchester Boulevard expected to come to the Planning Commission in the next month; and approval of the first reading of the Senate Bill 9 Ordinance.
- Upcoming meetings include two special meetings:
 - Historic Preservation Committee on November 16, 2022, at 3:00p.m. rather than the day before Thanksgiving.
 - Planning Commission on November 21, 2022, at 7:00p.m.

SUBCOMMITTEE REPORTS/COMMISSION MATTERS

Historic Preservation Committee

Commissioner Raspe

- HPC met on October 26, 2022, and considered removal of homes from the inventory and additions and modifications to historic structures.

Conceptual Development Advisory Committee

Vice Chair Barnett

MINUTES OF PLANNING COMMISSION MEETING OF NOVEMBER 9, 2022

- CDAC met on November 9, 2022, and discussed an application for preliminary review of a proposal for construction of two multi-family buildings in a mixed-use project zoned CH. The application was reviewed and CDAC members gave input.

General Plan Advisory Committee

Chair Hanssen

- GPC met on October 26, 2022, and considered a General Plan amendment to add policies from the Community Design Element to the Hazards and Safety Element to be able to comply with the State regulations, and recommended approval of the amendment.

Housing Element Advisory Board

Chair Hanssen

- HEAB met on October 20, 2022, to take additional comments and ask questions regarding the draft of the Housing Element that went to the HCD that is currently reviewing it under a 90-day timeframe. HCD's comments are expected in January 2023.
- HEAB will meet again on November 17, 2022, in anticipation of potential comments.

Housing Element Advisory Board

Commissioner Thomas

- At the October 20, 2022, meeting HEAB discussed potential feedback it will receive, and staff is working on solutions to some of the anticipated issues with the initial draft.

ADJOURNMENT

The meeting adjourned at 10:18 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the November 9, 2022 meeting as approved by the Planning Commission.

/s/ Vicki Blandin