

**TOWN OF LOS GATOS  
PLANNING COMMISSION AGENDA  
JUNE 14, 2023  
110 EAST MAIN STREET  
LOS GATOS, CA**

Jeffery Barnett, Chair  
Steven Raspe, Vice Chair  
Susan Burnett, Commissioner  
Kylie Clark, Commissioner  
Kathryn Janoff, Commissioner  
Melanie Hanssen, Commissioner  
Emily Thomas, Commissioner

**PARTICIPATION IN THE PUBLIC PROCESS**

How to participate: The Town of Los Gatos strongly encourages your active participation in the public process, which is the cornerstone of democracy. If you wish to speak to an item on the agenda, please follow the participation instructions on page 2 of this agenda. If you wish to speak to an item NOT on the agenda, you may do so during the “Verbal Communications” period, by following the participation instructions on page 2 of this agenda. The time allocated to speakers may change to better facilitate the Planning Commission meeting.

Effective Proceedings: The purpose of the Planning Commission meeting is to conduct the business of the community in an effective and efficient manner. For the benefit of the community, the Town of Los Gatos asks that you follow the Town’s meeting guidelines while attending Planning Commission meetings and treat everyone with respect and dignity. This is done by following meeting guidelines set forth in State law and in the Town Code. Disruptive conduct is not tolerated, including but not limited to: addressing the Commissioners without first being recognized; interrupting speakers, Commissioners or Town staff; continuing to speak after the allotted time has expired; failing to relinquish the podium when directed to do so; and repetitiously addressing the same subject.

Deadlines for Public Comment and Presentations are as follows:

- Persons wishing to make an audio/visual presentation on any agenda item must submit the presentation electronically, either in person or via email, to the Planning Department by 1 p.m. or the Clerk’s Office no later than 3:00 p.m. on the day of the Planning Commission meeting.
- Persons wishing to submit written comments to be included in the materials provided to the Planning Commission must provide the comments to the Planning Department as follows:
  - For inclusion in the regular packet: by 11:00 a.m. the Friday before the meeting
  - For inclusion in any Addendum: by 11:00 a.m. the day before the meeting
  - For inclusion in any Desk Item: by 11:00 a.m. on the day of the meeting

***Planning Commission meetings are broadcast Live on KCAT, Channel 15 (on Comcast) on the 2<sup>nd</sup> and 4<sup>th</sup> Wednesdays at 7:00 p.m.  
Live and Archived Planning Commission meetings can be viewed by going to:  
[www.LosGatosCA.gov/TownYouTube](http://www.LosGatosCA.gov/TownYouTube)***

***IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN THIS MEETING,  
PLEASE CONTACT THE CLERK DEPARTMENT AT (408) 354-6834. NOTIFICATION 48 HOURS BEFORE THE MEETING WILL ENABLE THE TOWN  
TO MAKE REASONABLE ARRANGEMENTS TO ENSURE ACCESSIBILITY TO THIS MEETING [28 CFR §35.102-35.104]***

**TOWN OF LOS GATOS**  
**PLANNING COMMISSION MEETING AGENDA**  
**JUNE 14, 2023**  
**7:00 PM**

**IMPORTANT NOTICE**

This is a hybrid/in-person meeting and will be held in-person at the Town Council Chambers at 110 E. Main Street and virtually through the Zoom webinar application (log-in information provided below). Members of the public may provide public comments for agenda items in-person or virtually through the Zoom webinar by following the instructions listed below. The live stream of the meeting may be viewed on television and/or online at [www.LosGatosCA.gov/TownYouTube](http://www.LosGatosCA.gov/TownYouTube).

\*This meeting will be teleconferenced pursuant to Government Code Section 54953(b)(3). Planning Commissioner Kylie Clark will be participating from a teleconference location at 12847 Sir Francis Drake Blvd in Inverness, CA. The teleconference location shall be accessible to the public and the agenda will be posted at the teleconference locations 72 hours before the meeting.

**PARTICIPATION**

To provide oral comments in real-time during the meeting:

- **Zoom webinar:** Join from a PC, Mac, iPad, iPhone or Android device: Please click this URL to join: <https://losgatosca-gov.zoom.us/j/85763705294?pwd=cWF0c0RwOXhHRk1uTHNIU01lWEgwZz09>. Passcode: 512547. You can also type in 857 6370 5294 in the “Join a Meeting” page on the Zoom website at <https://zoom.us/join>.
  - When the Mayor announces the item for which you wish to speak, click the “raise hand” feature in Zoom. If you are participating by phone on the Zoom app, press \*9 on your telephone keypad to raise your hand.
- **Join by telephone:** Join by Telephone: Dial: USA 877 336 1839 US Toll-free or 636 651 0008 US Toll. Conference code: 686100
  - If you are participating by calling in, press #2 on your telephone keypad to raise your hand.
- **In-Person:** If you wish to speak during the meeting, please complete a “speaker’s card” located on the back of the chamber benches and return it to the Vice Chair. If you wish to speak to an item on the agenda, please list the item number. If you wish to speak on an item NOT on the agenda, please list the subject and you may speak during the “Verbal Communications” period. The time allocated to speakers may change to better facilitate the Planning Commission meeting.

When called to speak, you may be asked to provide your full name and your town/city of residence. This identifying information is optional and not a requirement for participation. Please limit your comments to three (3) minutes, or such other time as the Chair may decide, consistent with the time limit for speakers at a Council meeting. If you wish to speak to an item or items on the Consent Calendar, please state which item number(s) you are commenting on at the beginning of your time.

If you are unable to participate in real-time, you may email to [Planning@losgatosca.gov](mailto:Planning@losgatosca.gov) the subject line “Public Comment Item #\_\_” (insert the item number relevant to your comment) or “Verbal Communications – Non-Agenda Item.” Comments received by 11:00 a.m. the day of the meeting will be reviewed and distributed before the meeting. All comments received will become part of the record.

**TOWN OF LOS GATOS  
PLANNING COMMISSION AGENDA  
JUNE 14, 2023  
7:00 PM**

**MEETING CALL TO ORDER**

**ROLL CALL**

**RULES OF DECORUM AND CIVILITY**

To conduct the business of the community in an effective and efficient manner, please follow the meeting guidelines set forth in the Town Code and State law.

The Town does not tolerate disruptive conduct, which includes but is not limited to:

- Addressing the Planning Commission without first being recognized;
- Interrupting speakers, Planning Commissioners, or Town staff;
- Continuing to speak after the allotted time has expired;
- Failing to relinquish the microphone when directed to do so;
- Repetitiously addressing the same subject.

Town Policy does not allow speakers to cede their commenting time to another speaker. Disruption of the meeting may result in a violation of Penal Code Section 403.

**PLEDGE OF ALLEGIANCE**

**VERBAL COMMUNICATIONS** *(Members of the public may address the Commission on any matter that is not listed on the agenda. Unless additional time is authorized by the Commission, remarks shall be limited to three minutes.)*

**CONSENT ITEMS** *(Items appearing on the Consent Items are considered routine Town business and may be approved by one motion. Any member of the Commission may request to have an item removed from the Consent Items for comment and action. Members of the public may provide input on any or multiple Consent Item(s) when the Chair asks for public comments on the Consent Items. If you wish to comment, please follow the Participation Instructions contained on Page 2 of this agenda. If an item is removed, the Chair has the sole discretion to determine when the item will be heard.)*

1. Draft Minutes of the May 24, 2023 Planning Commission Meeting

**PUBLIC HEARINGS** *(Applicants/Appellants and their representatives may be allotted up to a total of five minutes maximum for opening statements. Members of the public may be allotted up to three minutes to comment on any public hearing item. Applicants/Appellants and their representatives may be allotted up to a total of three minutes maximum for closing statements. Items requested/recommended for continuance are subject to the Commission's consent at the meeting.)*

2. Consider an Appeal of a Community Development Director Decision to Deny a Fence Height Exception Request for Construction of an Automated Vehicular Gate Exceeding the Maximum Height and with Reduced Setbacks on Property Zoned R-1:8. **Located at 380 Blackwell Drive.** APN 424-12-027. Categorically Exempt Pursuant to CEQA Guidelines Section 15303 (e): New

Construction or Conversion of Small Structures. Fence Height Exception Application FHE-23-002. PROPERTY OWNER: Larry Cesnik and Martha Johnson. APPELLANT: Larry Cesnik. APPLICANT: Ramin Zohoor. PROJECT PLANNER: Sean Mullin.

**OTHER BUSINESS** *(Up to three minutes may be allotted to each speaker on any of the following items.)*

**REPORT FROM THE DIRECTOR OF COMMUNITY DEVELOPMENT**

**SUBCOMMITTEE REPORTS / COMMISSION MATTERS**

**ADJOURNMENT** *(Planning Commission policy is to adjourn no later than 11:30 p.m. unless a majority of the Planning Commission votes for an extension of time)*

*Writings related to an item on the Planning Commission meeting agenda distributed to members of the Commission within 72 hours of the meeting are available for public inspection at the reference desk of the Los Gatos Town Library, located at 100 Villa Avenue; the Community Development Department and Clerk Department, both located at 110 E. Main Street; and are also available for review on the official Town of Los Gatos website. Copies of desk items distributed to members of the Commission at the meeting are available for review in the Town Council Chambers.*

*Note: The Town of Los Gatos has adopted the provisions of Code of Civil Procedure §1094.6; litigation challenging a decision of the Town Council must be brought within 90 days after the decision is announced unless a shorter time is required by State or Federal law.*





**TOWN OF LOS GATOS  
PLANNING COMMISSION  
REPORT**

MEETING DATE: 06/14/2023

ITEM NO: 1

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**DRAFT  
MINUTES OF THE PLANNING COMMISSION MEETING  
MAY 24, 2023**

The Planning Commission of the Town of Los Gatos conducted a Regular Meeting on Wednesday, May 24, 2023, at 7:00 p.m.

**MEETING CALLED TO ORDER AT 7:00 PM**

**ROLL CALL**

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

**PLEDGE OF ALLEGIANCE**

**VERBAL COMMUNICATIONS**

None.

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

**1. Approval of Minutes – April 26, 2023**

**MOTION:**                    **Motion by Vice Chair Raspe to approve adoption of the Consent Calendar. Seconded by Commissioner Thomas.**

**VOTE:**                    **Motion passed unanimously.**

**PUBLIC HEARINGS**

**2. Modifications to the Town Height Pole and Netting Policy**

Applicant: Town of Los Gatos

Location: Town Wide

Forward a recommendation to the Town Council on modifications to the Town Height Pole and Netting Policy for Additions and New Construction. The proposed amendments to Town policy are not considered a project under the California Environmental Quality Act.

Jennifer Armer, Planning Manager, presented the staff report.

Opened Public Comment.

Jessie Bristow, Swenson Builders

- Our proposed project on Shelburne Way and Winchester Boulevard would be 38 feet. We used string flags to accommodate that size, because netting cannot be used for that height, and have received approval for an exception to create a 3D video of the project, which we feel articulates the architecture in the finished project much better. I would agree with the discussion that it could be a constraint for future housing. Our initial install was about \$70,000, and on top of that we pay about \$7,000 monthly to rent the flags. I think there are alternative solutions, such as renderings and videos using today's technology, and encourage a change to the policy, especially with future RHNA housing goals and bonuses that allow the height to be broken.

Lee Fagot

- New construction is impactful townwide, and therefore all members of the Town should be able to see what this new construction would look like. The virtual technology with story poles helps give a better image of the potential impact from different perspectives, particularly with the hillsides. Could have less dense netting that would not be impacted by strong winds, but story poles without netting makes no sense. Also, the suggestion to put flags at the top where the peak of a roof would be would help to give a perspective. The story poles should be marked every 10 feet starting at the new grade. Story poles have been working for a long time, and while there is a cost associated with them the benefit is the larger community gets to see what the impact would be on that site.

Noel Cross

- As stated in the comment letter written by Bess Wiersema, from six or eight local architects, story poles are more hurtful than helpful and don't represent the character of the building. They represent only the worst parts of the structure, the height and bulk, but do not communicate nuance, materials, color, shade, shadow, roofline, proportion, all the things architects care passionately about and work on in our 3D renderings. In over 35 years as an architect, I've learned that the neighbors of our projects are very fearful, mostly about the unknown, and because story poles convey none of the nuance and beauty, it only stokes the fear and makes it worse, and our renderings are way better at communicating what is actually going on. The irony is the color of story pole netting is orange with an LRV of 44, but the Hillside Design Guidelines require new buildings be less than an LRV of 30, so why have something orange and fluorescent when that is not what is going to be up there?

Bess Wiersema

- Maybe there are projects that don't need story poles. If something is highly contested, or a larger project, or is asking for an exception or variance, maybe those are the projects that are story poled, but if neighbors are fine with looking at 3D computer models and renderings, those are more helpful. We suggest having a study session for a group of design professionals, owners, developers, story pole contractors, and Town staff and to come back to the Planning Commission with a collaborative recommendation that has more specifics. There are two issues here: 1) story poles do not accurately represent a project; and 2) the process in which the Town deals with story poles, which is where we'd like to see additional streamlining.

Don Capobres

- At the last hearing there was general consensus that story poles are largely effective in alerting the general public about potential land uses, and I believe that, but there has to be a better way to do this. Some of our biggest concerns during the North Forty story pole program were: 1) they should have been done when there was a chance for the public to make an impact on the land use policy decisions, not when an application that complied to the Specific Plan was submitted; 2) we put up over 600 story poles at the North Forty at a cost of nearly \$1 million, and the general public could not see the interior story poles; and 3) we were required to keep the 600-plus story poles up for over six months as the various Planning Commission and Town Council hearings were extended, and that put a lot of cost into it, as well as danger from weather impacts, and we had to provide free rent to businesses out there. The length of time the story poles were up, was not helpful to anyone; if the main intent was to alert the public, they knew within the first couple of weeks. Technology has made great advances as other speakers have commented. We have an 80-foot building proposed for phase 2 and renting cranes to do story poles for that is cost prohibitive. We advocate for tethered balloons, photo-simulations, computer renderings, QR code-based technology, and physical models made via 3D printing.

Closed Public Comment.

#### Item A – Story Pole Requirement

Commissioners discussed the matter.

**MOTION:**                    **Motion by Commissioner Thomas** to recommend to Town Council retaining the requirement for installation of story poles for development projects with further details coming in other sections. **Seconded by Commissioner Burnett.**

Commissioners discussed the matter.

**VOTE:**                    **Motion passed unanimously.**

Item B – Types of Development Projects

Commissioners discussed the matter.

**MOTION:**                    **Motion by Commissioner Thomas** to recommend to Town Council the following types of projects be required to install story poles: 1) Residential: if a project is the first two-story home in the immediate neighborhood or requests a variance or exception to physical characteristics of the structure; 2) Historic Districts: all new residential and non-residential buildings, all residential second story additions, and non-residential additions exceeding 100 square feet; 3) Hillsides: new buildings or second story additions; 4) Generic commercial outside of the Historic Districts: additions over 100 square feet only or new projects asking for variances or exceptions to physical characteristics of the structure; and 5) Affordable Housing: projects that include a certain amount of affordable housing, to be determined by Town Council, shall be exempt.

**Vice Chair Raspe requested the motion be amended to include story pole requirements in the Commercial Zones: 1) where there is a variance sought with respect to massing, location, or the physical structure; and 2) all structures over 50,000 square feet.**

**The maker of the motion accepted the amendment to the motion.**

**Seconded by Commissioner Hanssen.**

**Commissioner Hanssen requested the motion be amended for residential to include two-story homes that have single-story homes on both sides.**

**The maker of the motion accepted the amendment to the motion.**

**The maker of the motion amended the motion to modify the language regarding homes in Historic Districts to: “Homes within the Historic Inventory that are new residential and non-residential buildings or residential second-story additions.”**

**The seconder accepted the amendment.**

**The maker of the motion amended the motion to modify the language to exclude the story pole requirement for projects where there is no visibility from the public right-of-way.**

**The seconder accepted the amendment.**

**VOTE:**                    **Motion passed unanimously.**

Item C – Modify Physical Requirements

Commissioners discussed the matter.

**MOTION:**                    **Motion by Commissioner Thomas** to recommend to Town Council that alternatives to netting, such as flag rope, could be allowed above 35 feet.

Commissioners discussed the matter.

**Seconded by Commissioner Hanssen.**

**VOTE:**                    **Motion passed unanimously.**

Item D – Provide Alternatives

Commissioners discussed the matter.

**MOTION:**                    **Motion by Commissioner Clark** to recommend to Town Council that: 1) A reduced number of story poles be allowed for multi-building projects so only the outer buildings and the tallest building need to be story poled; 2) There be a QR code and email address included on the signage; 3) the story poles only be required to be in place until 30 days after the initial public hearing; 4) Signage shall be required for projects covered by the current Story Pole Policy story poles; 5) Consider having signage up earlier than the story poles; and 6) Standardize signage to ensure it is noticeable. **Seconded by Commissioner Thomas.**

Commissioners discussed the matter.

**VOTE:**                    **Motion passed unanimously.**

Commissioners discussed the matter.

**MOTION:**                    **Motion by Commissioner Hanssen** to recommend to Town Council allowing the relocation of story poles located close to property lines without getting an exception, and allow attaching guy wires to other structures onsite, with the exception of trees. **Seconded by Commissioner Clark.**

Commissioners discussed the matter.

**VOTE:**                    **Motion passed unanimously.**

Item E – Modify Exception Process

Commissioners discussed the matter.

**MOTION:**                    **Motion by Vice Chair Raspe** to recommend to Town Council the Community Development Director be the decision maker for all story pole and signage exception requests. **Seconded by Commissioner Hanssen.**

Commissioners discussed the matter.

**VOTE:**                    **Motion passed unanimously.**

Item F – Story Pole Plan Requirement

Commissioners discussed the matter.

**MOTION:**                    **Motion by Commissioner Clark** to recommend to Town Council making a story pole plan optional rather than required. **Seconded by Commissioner Thomas.**

Commissioners discussed the matter.

**VOTE:**                    **Motion passed unanimously.**

Item G – Housing Element

Commissioners discussed the matter.

**OTHER BUSINESS**

**REPORT FROM THE DIRECTOR OF COMMUNITY DEVELOPMENT**

None.

**SUBCOMMITTEE REPORTS/COMMISSION MATTERS**

**General Plan Committee**

Commissioner Hanssen

- The Housing Element Advisory Board has not met since March, but the General Plan Committee met on May 10, 2023, to discuss considering a General Plan amendment for a property on Los Gatos Boulevard, and recommended approval.
- The General Plan Committee elected a new Chair, Ryan Rosenberg, and a new Vice Chair Emily Thomas.

**Historic Preservation Committee**

Commissioner Burnett

- The HPC met on May 24, 2023, and discussed two items:
  - o Homeowner and architect seeking advice and recommendations on a second story addition to maintain the look and feel of the historic home.
  - o Demolition of an older ADU. The HPC recommended the demolition and building the new ADU similar to the historic primary home.

**Commission Matters**

None.

**ADJOURNMENT**

The meeting adjourned at 10:17 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the April 24, 2023 meeting as approved by the Planning Commission.

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/s/ Vicki Blandin

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**TOWN OF LOS GATOS  
PLANNING COMMISSION  
REPORT**

MEETING DATE: 6/14/2023

ITEM NO: 2

DATE: June 9, 2023

TO: Planning Commission

FROM: Joel Paulson, Community Development Director

SUBJECT: Consider an Appeal of a Community Development Director Decision to Deny a Fence Height Exception Request for Construction of an Automated Vehicular Gate Exceeding the Maximum Height and with Reduced Setbacks on Property Zoned R-1:8. **Located at 380 Blackwell Drive.** APN 424-12-027. Categorically Exempt Pursuant to CEQA Guidelines Section 15303 (e): New Construction or Conversion of Small Structures. Fence Height Exception Application FHE-23-002. PROPERTY OWNER: Larry Cesnik and Martha Johnson. APPELLANT: Larry Cesnik. APPLICANT: Ramin Zohoor. PROJECT PLANNER: Sean Mullin.

**RECOMMENDATION:**

Deny the appeal of a Community Development Director decision to deny a fence height exception request for construction of an automated vehicular gate exceeding the maximum height and with reduced setbacks on property zoned R-1:8, located at 380 Blackwell Drive.

**PROJECT DATA:**

General Plan Designation: Low Density Residential

Zoning Designation: R-1:8, Single-Family Residential

Applicable Plans & Standards: Town Code, General Plan, Residential Design Guidelines

Parcel Size: 8,000 square feet

Surrounding Area:

	Existing Land Use	General Plan	Zoning
North	Residential	Low Density Residential	R-1:8:PD
South	Residential	Low Density Residential	R-1:8
East	Residential	Low Density Residential	R-1:8
West	Residential	Low Density Residential	R-1:8

**PREPARED BY:** SEAN MULLIN, AICP  
Senior Planner

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Reviewed by: Planning Manager and Community Development Director

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CEQA:

The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15303 (e): New Construction or Conversion of Small Structures.

FINDINGS:

- The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15303 (e): New Construction or Conversion of Small Structures.
- As required by Section 29.40.320 of the Town Code for granting a Fence Height Exception.

ACTION:

The decision of the Planning Commission is final unless appealed within ten days.

BACKGROUND:

The subject property is located at the corner of Blackwell Drive and National Avenue (Exhibit 1). The surrounding properties are residential uses. The subject property is developed with a single-family residence and an attached accessory dwelling unit (ADU).

On September 13, 2022, the Town issued an administrative citation for a code violation at the subject property (Exhibit 4) after the vehicular gate was noted by a Town Building Inspector during a progress inspection for construction of the ADU. This letter requested that the property owners apply for a Building Permit for the vehicular gate by September 27, 2022. Following issuance of the citation, the applicant contacted Town Planning staff who communicated to the applicant that the vehicular gate exceeds the three-foot height limitation for a gate located in the required front yard and the traffic view area. Additionally, staff noted that the gate does not meet the required 18-foot setback from the edge of the street. 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.

On February 6, 2023, the applicant applied for an exception to the Town's fence regulations for the unpermitted construction of the vehicular gate, which does not comply with the Town Code fence height regulations for fences located in the required front setback and traffic view area, and for not meeting the required 18-foot setback for vehicular gates as measured from the street. The exception request was based on concerns related to protecting their child from stepping off the property. The project plans are provided as Exhibit 5, and the Letter of Justification for the exception is provided as Exhibit 5.

BACKGROUND (continued):

On March 6, 2023, the exception request was denied by the Community Development Director as none of the required findings per Town Code Section 29.40.0320 could be made and based upon the conclusion by the Parks and Public Works Department that unsafe conditions are created by the vehicular gate lacking the 18-foot setback required by Town Code Section 29.40.0315(c)(3), and its proximity to the intersection adjacent to the property (Exhibit 6).

On March 8, 2023, the property owner appealed this decision (Exhibit 7).

PROJECT DESCRIPTION:

A. Location and Surrounding Neighborhood

The subject property is located at the corner of Blackwell Drive and National Avenue (Exhibit 1). The surrounding properties are residential uses. The subject property is developed with a single-family residence and an attached ADU.

B. Project Summary and Zoning Compliance

The property owner is appealing the Community Development Director decision to deny an exception to the fencing regulations for unpermitted construction of a vehicular gate that does not comply with the height regulations for fences located in the required front setback and traffic view area, and for not meeting the required 18-foot setback for vehicular gates as measured from the street (Exhibit 7).

DISCUSSION:

A. Fence Height Exception

The property owner requested an exception to the fence regulations for: a vehicular gate exceeding the three-foot height limitation located in a required front setback and traffic view area; and a vehicular gate that does not meet the 18-foot setback requirement as measured from the edge of the street (Exhibit 5).

Exhibit 8, prepared by staff, shows the locations of existing fencing on the property, which includes:

- Six-foot tall solid wood fencing along the rear and interior side property lines. This fencing appears to comply with current regulations.
- Four-foot tall concrete block and picket fencing at the front and street-side property lines. This fencing continues along the east side of the driveway to connect with the

BACKGROUND (continued):

residence. This fencing existed prior to the current fence regulations and is considered existing legal nonconforming.

- Four-foot, three-inch, tall solid wood fencing along the interior property line running from the front property line to the six-foot tall fencing described above. This fencing existed prior to the current fence regulations and is considered existing legal nonconforming.
- Seven-foot tall solid wood fencing running from the interior property line to the left side of the residence. This fencing appears to comply with current regulations.
- A four-foot, three-inch tall unpermitted vehicular gate across the driveway at the front property line, which is the subject of this appeal.

Per Town Code Section 29.40.0315 (a)(3), fences, walls, gates, and hedges may not exceed a height of three feet when located within a required front or side yard abutting a street, driveway view area, or traffic view area unless an exception is granted by the Town Engineer and Community Development Director. This regulation is intended to minimize conflicts between pedestrians, cyclists, and cars by ensuring fences, walls, gates, and hedges do not obstruct the view from a car as it exits a driveway and crosses over a sidewalk to enter the roadway. Limiting the height of fences and gates to no more than three feet in these areas allows drivers and pedestrians a view of each other while continuing to afford property owners the opportunity to define the boundaries of their property. The required front setback in the R-1:8 zone is 25 feet, and a traffic view area is the area that is within 15 feet of a street. Staff has prepared an exhibit showing the locations of these areas and the existing unpermitted vehicular gate (Exhibit 8). The proposed four-foot, three-inch tall vehicular gate is set at the front property line.

Per Town Code Section 29.40.0315 (c)(3), vehicular gates shall be set back from the edge of the adjacent street a minimum of 18 feet. The intent of this regulation is to allow for vehicles to clear the travel lanes while queuing as the gate is opening. The required vehicular setback is shown on Exhibit 8. The vehicular gate is setback approximately 13.4 feet from the edge of the street.

Town Code Section 29.40.0320, provided below, allows an exception to any of the fence regulations if a property owner can demonstrate that one of the following conditions exist.

*Sec. 29.40.0320. - Exceptions.*

*An exception to any of these fence regulations may be granted by the Community Development Director. A fence exception application and fee shall be filed with the Community Development Department and shall provide written justification that demonstrates one (1) of the following conditions exist:*

DISCUSSION (continued):

- (a) Adjacent to commercial property, perimeter fences or walls may be eight (8) feet if requested or agreed upon by a majority of the adjacent residential property owners.*
- (b) On interior lots, side yard and rear yard fences, walls, gates, gateways, entry arbors, or hedges, behind the front yard setback, may be a maximum of eight (8) feet high provided the property owner can provide written justification that either:
  - (1) A special privacy concern exists that cannot be practically addressed by additional landscaping or tree screening; or*
  - (2) A special wildlife/animal problem affects the property that cannot be practically addressed through alternatives. Documented instances of wildlife grazing on gardens or ornamental landscaping may be an example of such a problem.**
- (c) At public utility facilities, critical infrastructure, and emergency access locations, exceptions may be granted where strict enforcement of these regulations will result in a security or safety concern.*
- (d) A special security concern exists that cannot be practically addressed through alternatives.*
- (e) A special circumstance exists, including lot size or configuration, where strict enforcement of these regulations would result in undue hardship.*

The property owner requested exceptions based on concerns related to protecting their child from stepping off the property (Exhibit 5).

Staff was unable to support the requested exceptions as the required findings could not be made. In consideration of the safety concern cited by the applicant, staff noted that the property is already enclosed by existing fencing and gates except for the driveway area. Additionally, the requested exceptions would create unsafe conditions caused by a vehicular gate lacking the 18-foot setback required by the Town Code. The reduced setback of the gate would not allow for vehicles to clear the travel lanes while queuing, potentially obstructing traffic on Blackwell Drive near the intersection with National Avenue. Parks and Public Works reviewed the proposal and could not support the exception requests noting that the subject driveway is near a busy street (National Avenue) and the added queue time is considered a nuisance and unnecessary risk. The Town denied the exception request on March 6, 2023 (Exhibit 6).

**B. Appeal**

The decision of the Community Development Director to deny the Fence Height Exception application was appealed by the property owner on March 8, 2023 (Exhibit 7). In their appeal, the property owner reiterates their safety concerns. Additional justification and information were not provided with the appeal.

DISCUSSION (continued):

C. Environmental Review

The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15303 (e): New Construction or Conversion of Small Structures.

PUBLIC COMMENTS:

Written notice was sent to property owners and tenants within 300 feet of the subject property. Staff has included all public comments received by 11:00 a.m., Friday, June 9, 2023, as Exhibit 9.

CONCLUSION:

A. Summary

The property owner is requesting that the Planning Commission overturn the Community Development Director's decision to deny an exception to the fencing regulations for unpermitted construction of a vehicular gate that does not comply with the Town Code fence height regulations for fences located in the required front setback and traffic view area, and for not meeting the 18-foot setback for vehicular gates as measured from the street and approve the application.

B. Recommendation

Staff recommends that the Planning Commission deny the appeal and uphold the Community Development Director decision to deny an exception to the fencing regulations based on the reasoning provided in this report.

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 draft conditions provided in Exhibit 3; or
3. Grant the appeal with additional and/or modified conditions.

PAGE 7 OF 7

SUBJECT: 380 Blackwell Drive/FHE-23-002

DATE: June 9, 2023

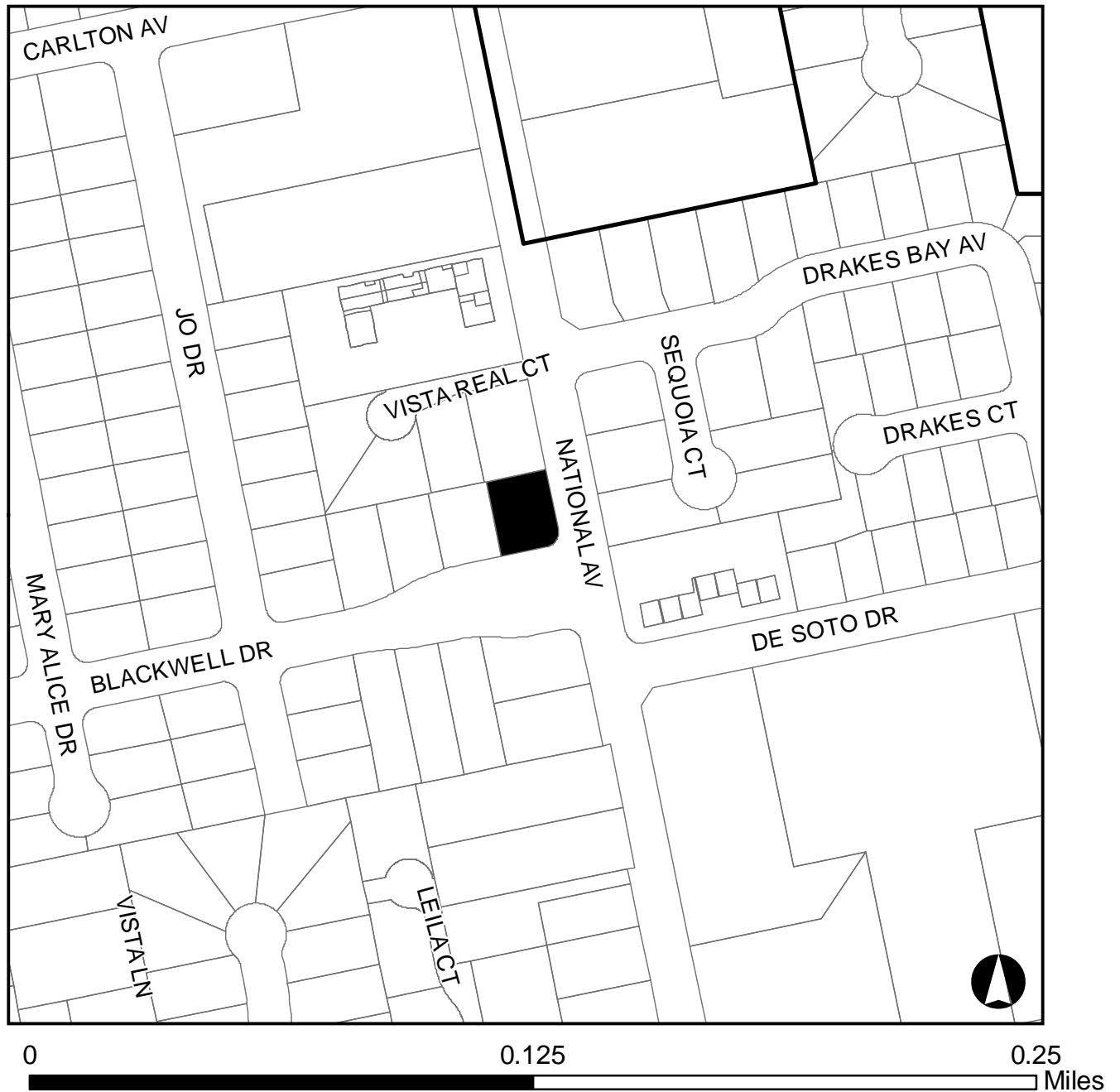
EXHIBITS:

1. Location Map
2. Required Finding
3. Recommended Conditions of Approval if Appeal is Granted
4. Administrative Warning/Citation VL-22-465, dated September 9, 2022
5. Exception Request – Letter of Justification
6. Fence Height Exception Denial Letter, dated March 6, 2023
7. Appeal of the Community Development Director Decision, received March 8, 2023
8. Annotated Site Plan Prepared by Staff
9. Public Comments received before 1100 a.m., Friday June 9, 2023
10. Project Plans

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# 380 Blackwell Drive



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**PLANNING COMMISSION – June 14, 2023**  
**REQUIRED FINDINGS FOR:**

**308 Blackwell Drive**  
**Fence Height Exception FHE-23-002**

**Consider an Appeal of a Community Development Director Decision to Deny a Fence Height Exception Request for Construction of an Automated Vehicular Gate Exceeding the Maximum Height and with Reduced Setbacks on Property Zoned R-1:8. Located at 380 Blackwell Drive. APN 424-12-027. Categorically Exempt Pursuant to CEQA Guidelines Section 15303 (e): New Construction or Conversion of Small Structures. Fence Height Exception Application FHE-23-002. PROPERTY OWNER: Larry Cesnik and Martha Johnson. APPELLANT: Larry Cesnik. APPLICANT: Ramin Zohoor. PROJECT PLANNER: Sean Mullin.**

**Required finding for CEQA:**

- The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15303 (e): New Construction or Conversion of Small Structures.

**Required findings for granting a Fence Height Exception:**

- A special security concern exists that cannot be practically addressed through alternatives.
- A special circumstance exists, including lot size or configuration, where strict enforcement of these regulations would result in undue hardship.

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**PLANNING COMMISSION – June 14, 2023**  
**CONDITIONS OF APPROVAL**

**308 Blackwell Drive**  
**Fence Height Exception FHE-23-002**

**Consider an Appeal of a Community Development Director Decision to Deny a Fence Height Exception Request for Construction of an Automated Vehicular Gate Exceeding the Maximum Height and with Reduced Setbacks on Property Zoned R-1:8. Located at 380 Blackwell Drive. APN 424-12-027. Categorically Exempt Pursuant to CEQA Guidelines Section 15303 (e): New Construction or Conversion of Small Structures. Fence Height Exception Application FHE-23-002. PROPERTY OWNER: Larry Cesnik and Martha Johnson. APPELLANT: Larry Cesnik. APPLICANT: Ramin Zohoor. PROJECT PLANNER: Sean Mullin.**

TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT:

*Planning Division*

1. APPROVAL: This application shall be completed in accordance with all of the conditions of approval listed below.
2. EXPIRATION: The Fence Height Exception approval will expire two years from the approval date pursuant to Section 29.20.320 of the Town Code, unless the approval has been vested.
3. BUILDING PERMIT: The proposed vehicular gate requires a Building Permit.
4. VEHICULAR GATE: The vehicular gate must open inward, towards the residence or slide parallel to the street.
5. TOWN INDEMNITY: Applicants are notified that Town Code Section 1.10.115 requires that any applicant who receives a permit or entitlement (“the Project”) from the Town shall defend (with counsel approved by Town), indemnify, and hold harmless the Town, its agents, officers, and employees from and against any claim, action, or proceeding (including without limitation any appeal or petition for review thereof) against the Town or its agents, officers or employees related to an approval of the Project, including without limitation any related application, permit, certification, condition, environmental determination, other approval, compliance or failure to comply with applicable laws and regulations, and/or processing methods (“Challenge”). Town may (but is not obligated to) defend such Challenge as Town, in its sole discretion, determines appropriate, all at applicant’s sole cost and expense.

Applicant shall bear any and all losses, damages, injuries, liabilities, costs and expenses (including, without limitation, staff time and in-house attorney’s fees on a fully-loaded basis, attorney’s fees for outside legal counsel, expert witness fees, court costs, and other litigation expenses) arising out of or related to any Challenge (“Costs”), whether incurred by Applicant, Town, or awarded to any third party, and shall pay to the Town upon demand

EXHIBIT 3

any Costs incurred by the Town. No modification of the Project, any application, permit certification, condition, environmental determination, other approval, change in applicable laws and regulations, or change in such Challenge as Town, in its sole discretion, determines appropriate, all the applicant's sole cost and expense. No modification of the Project, any application, permit certification, condition, environmental determination, other approval, change in applicable laws and regulations, or change in processing methods shall alter the applicant's indemnity obligation.

*Building Division*

6. PEDESTRIAN GATE REQUIRED: Identify the location of the required pedestrian gate;
7. PEDESTRIAN GATE: For pedestrian access in the vicinity of an automated gate, a separate pedestrian gate shall be provided. The pedestrian gate shall be installed in a location such that a pedestrian shall not come in contact with a moving vehicular access gate. A pedestrian gate shall not be incorporated into an automated vehicular gate panel.



# Town of Los Gatos

## Administrative Warning/Citation

Code Compliance  
110 E. Main Street  
Los Gatos, CA 95030  
(408) 399-5746  
PLADMCIT

Date Issued: 9/13/22 Time: \_\_\_\_\_

Code Compliance Violation NO. VL- 22-465 Zone: \_\_\_\_\_

Violation Address: 380 Blackwell Drive Town: Los Gatos State: CA Zip: 95032

Name (Responsible person/business): Larry Cesnik and Martha Johnson

Mailing Address: \_\_\_\_\_

Town/City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ ☒ Same as Violation Address

Document Issued: ☐ WARNING ☐ CORRECTION NOTICE ☒ ADMINISTRATIVE CITE

Issuing Department: CDD Compliance Date: 9/27/22 Inspection Date: 9/13/22

**The total penalty is now due. Instructions for payment are listed on reverse page.**

In order to comply with the Los Gatos Town Code, you will need to:

Obtain a Building Permit for an automatic vehicular gate by compliance date above. Immediately lock gate in open position until an issued permit has been obtained.


Code Section	Description	Penalty Amount
6.150.010 (R 105.1)	Permit Required	\$100.00

Photos Taken: (Circle one) YES / NO Quantity: 3 photo Total: \$100.00

Appeal of this Administrative Citation may be made by filling out a Hearing Request. Contact the Town of Los Gatos Community Development Department, 110 E. Main Street, Los Gatos, CA 95030 or by e-mail at [CodeCompliance@LosGatosCA.gov](mailto:CodeCompliance@LosGatosCA.gov) for an application. Additional citations may be issued each day the violation exists.

NOTE: PERMIT(S) FROM THE PLANNING, BUILDING AND/OR PARKS AND PARKS AND PUBLIC WORKS DEPARTMENTS MAY ALSO BE REQUIRED FOR VIOLATIONS INVOLVING STRUCTURES, GRADING, ENCROACHMENTS AND TREE REMOVALS. WORK PERFORMED WITHOUT THE REQUIRED PERMIT(S) AND TOWN INSPECTION IS A VIOLATION OF THE TOWN OF LOS GATOS TOWN CODE AND WILL NOT QUALIFY AS COMPLIANCE.

Issuing Official: Allen Meyer Badge/Title NO.: Code Compliance Officer

Signature:  Date: 9/13/22 Phone: 408-399-5746

Signature: \_\_\_\_\_ Print Name: \_\_\_\_\_

Proof of Service: regular mail

**Order:** You are ordered to immediately cease the commission of the Town Code violation(s) listed on the front of this Administrative Citation.

**Administrative Citation:** Pursuant to Chapter 1.30.010 through 1.30.070 of the Town of Los Gatos Town Code, if you continue to repeat the commission of the Town Code violation(s) listed on this Administrative Citation, the Town may issue you another Citation or pursue any other legal remedy available to the Town against you.

**Payment of Penalty:** The amounts of the penalties for code violation(s) of the Los Gatos Town Code are listed on the front of this Administrative Citation. The penalty shall be paid to the Town within thirty (30) days from the date of the Administrative Citation.

You may pay and deliver the Administrative fine(s) to the Town by mail or in person at the Town of Los Gatos Finance Department, 110 E. Main Street, Los Gatos, CA 95030. Payment should be in the form of a personal check payable to the Town of Los Gatos or cash. Unless you have requested a hearing to contest the Administrative Citation, you will be subject to the imposition of a 10% late payment penalty, plus interest, if you fail to pay the Administrative fine(s) by the due date. Payment of Administrative fines does not excuse or discharge any continuation or repeated occurrence of the Town Code violation(s) listed on this Administrative Citation.

**Hearing Request:** Any recipient of an Administrative Citation may appeal the Citation by completing a hearing request form and returning it to the Town within thirty (30) days from the date of the Administrative Citation together with an advance deposit of the total penalty amount or advance deposit hardship waiver (explained below) application form as described in Section 1.30.035. The Hearing Request form can be obtained by calling (408) 399-5746 or from the Town of Los Gatos Community Development Department, 110 E. Main Street, Los Gatos, CA 95030. You will be notified of the date and time set for your hearing at least ten (10) days prior to the date of the hearing. If you fail to appear at your hearing, this failure shall constitute a forfeiture of the penalty and no further administrative remedy is available.

**Advance Deposit Hardship Waiver:** Any person who intends to request a hearing to appeal an Administrative Citation, and who is financially unable to make the advance deposit of the penalty as required in Section 1.30.070, may file a request for an advance deposit hardship waiver which shall include a sworn affidavit. The waiver form can be obtained at the Town of Los Gatos Community Development Department, 110 Main Street, CA 95030. The decision to waive this requirement is made by the Town Manager. The request shall be filed, along with the request for hearing form, with the Town Attorney's Office on an advance deposit hardship waiver application form, available from the Town of Los Gatos Community Development Department, within thirty (30) days of the date of the Administrative Citation.

**Late Payment Charges:** Any person who fails to pay to the Town any penalty imposed pursuant to the provision of this Article on or before the date that penalty is due also shall be liable for the payment of any applicable late payment charges set forth in the schedule of penalties.

**Right to Judicial Review:** Any person aggrieved by an administrative decision of the Hearing Officer on an Administrative decision by filing a petition for review with the Supreme Court in Santa Clara County in accordance with the time and provision set forth in California Government Code Section 53069.4.









# Property Detail Report

For Property Located At :  
380 BLACKWELL DR, LOS GATOS, CA 95032-2413



CoreLogic  
RealQuest Professional

## Owner Information

Owner Name: CESNIK LARRY W/JOHNSON MARTHA C  
Mailing Address: 380 BLACKWELL DR, LOS GATOS CA 95032-2413 C014  
Vesting Codes: //

## Location Information

Legal Description: TRACT 2676 LOS GATOS TOWN MANOR BOOK 128 PAGE 32 PAGE 33 LOT 44  
County: SANTA CLARA, CA APN: 424-12-027  
Census Tract / Block: 5068.01 / 2 Alternate APN:  
Township-Range-Sect: Subdivision: LOS GATOS TOWN MANOR  
Legal Book/Page: Map Reference: 71-B2 /  
Legal Lot: 44 Tract #: 2676  
Legal Block: School District: CAMPBELL UN  
Market Area: 16 School District Name: CAMPBELL UN  
Neighbor Code: Munic/Township: TOWN OF LOS GATOS

## Owner Transfer Information

Recording/Sale Date: / Deed Type:  
Sale Price: 1st Mtg Document #:  
Document #:

## Last Market Sale Information

Recording/Sale Date: 10/05/2020 / 09/29/2020 1st Mtg Amount/Type: \$765,500 / CONV  
Sale Price: \$1,300,000 1st Mtg Int. Rate/Type: /  
Sale Type: FULL 1st Mtg Document #: 24642467  
Document #: 24642466 2nd Mtg Amount/Type: /  
Deed Type: GRANT DEED 2nd Mtg Int. Rate/Type: /  
Transfer Document #: Price Per SqFt: \$1,115.88  
New Construction: Multi/Split Sale:  
Title Company: FIDELITY NATIONAL TITLE CO  
Lender: GUARANTEED RATE AFFINITY LLC  
Seller Name: ARLENE JUDITH

## Prior Sale Information

Prior Rec/Sale Date: / Prior Lender:  
Prior Sale Price: Prior 1st Mtg Amt/Type: /  
Prior Doc Number: Prior 1st Mtg Rate/Type: /  
Prior Deed Type:

## Property Characteristics

Gross Area: 1,165	Parking Type: GARAGE	Construction: WOOD
Living Area: 1,165	Garage Area: 430	Heat Type: HEATED
Tot Adj Area:	Garage Capacity:	Exterior wall:
Above Grade:	Parking Spaces:	Porch Type: PORCH
Total Rooms: 6	Basement Area:	Patio Type: NONE
Bedrooms: 3	Finish Bsmnt Area:	Pool:
Bath(F/H): 2 /	Basement Type:	Air Cond:
Year Built / Eff: 1961 / 1961	Roof Type:	Style: L-SHAPE
Fireplace: Y / 1	Foundation:	Quality: AVERAGE
# of Stories: 1	Roof Material:	Condition: AVERAGE

Other Improvements: LAUNDRY ROOM Building Permit

## Site Information

Zoning: R18 Acres: 0.18 County Use: RESID SINGLE FAMILY (01)  
Lot Area: 7,900 Lot Width/Depth: 80 x 100 State Use:  
Land Use: SFR Res/Comm Units: / Water Type:  
Site Influence: Sewer Type:

## Tax Information

Total Value: \$1,326,000	Assessed Year: 2022	Property Tax: \$17,099.28
Land Value: \$1,096,500	Improved %: 17%	Tax Area: 03007
Improvement Value: \$229,500	Tax Year: 2021	Tax Exemption:
Total Taxable Value: \$1,326,000		

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Project Address: 380-A-380 Blackwell Dr.,

Dear Madam/sir at city of Los Gatos planning department.,

Owners of property 380 Blackwell Drive. Have installed a roll security gate for the safety of their child. The gate has been installed at the edge of the property line in front. The height of the proposed garage is 51 inches. The gate is fully open and operable. The reason for the installation of gate is due to the illness of the child and scare of his safety which might cause him step outside of the property while playing at the front yard.

This gate will provide additional safety needed to make sure the kid stays in without supervision at all hours. All conditions of the existing fences and proposed roll fence have been details on the submitted site plan sheet for review.

Any questions please contact  
Ramin Zohoor

[REDACTED]

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## TOWN OF LOS GATOS

COMMUNITY DEVELOPMENT DEPARTMENT  
PLANNING DIVISION  
(408) 354-6872 Fax (408) 354-7593

CIVIC CENTER  
110 E. MAIN STREET  
LOS GATOS, CA 95030

March 6, 2023

Larry Cesnik  
{Sent via Email}

**RE: AMENDED ACTION LETTER**  
**380 Blackwell Drive**  
Fence Height Exception (FHE-23-002)

Requesting approval for an exception to an existing 4.25-foot-tall automated vehicular gate within the required front yard setback on property zoned R-1:8. APN 424-12-027.  
PROPERTY OWNERS: Larry Cesnik and Martha Johnson  
APPLICANT: Ramin Zohoor

The Los Gatos Community Development Department and Public Works Department have reviewed the referenced application for a fence height exception pursuant to [Town Code Section 29.40.0320](#). Based upon review by the Parks and Public Works Department, staff is unable to approve the application due to the unsafe conditions caused by a vehicular gate lacking the 18-foot setback required by Town Code Section [29.40.0315\(c\)\(3\)](#), and its proximity to the intersection adjacent to the property. Sufficient justification for conditions listed in Section 29.40.0320 was not provided.

Based on the foregoing, the Los Gatos Community Development Department has **denied** the request on February 27, 2023.

PLEASE NOTE: Pursuant to Section 29.20.255 of the Town Code, this decision may be appealed by any interested party to the Planning Commission within 10 days of the denial date. Appeals, with the completed Appeal Form and appeal fee payment, must be submitted **in person** to the Town Clerk's office within 10 days from the date of denial, or **by 4:00 p.m. on March 9, 2023**.

If you have any questions concerning this decision, please contact me at (408) 354-6873 or via email at [PBeeuwsaert@LosGatosCA.gov](mailto:PBeeuwsaert@LosGatosCA.gov).

Sincerely,

Peggy Beeuwsaert  
Assistant Planner

EXHIBIT 6

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**TOWN OF LOS GATOS  
COMMUNITY DEVELOPMENT DEPARTMENT**

110 E. Main Street  
Los Gatos, CA 95030

RECEIVED

MAR 8 2023

TOWN OF LOS GATOS  
PLANNING DIVISION

**APPEAL OF THE DECISION OF  
DIRECTOR OF COMMUNITY DEVELOPMENT**

**PLEASE TYPE or PRINT NEATLY**

I, the undersigned, do hereby appeal a decision of the DIRECTOR OF COMMUNITY DEVELOPMENT as follows:

DATE OF DECISION: February 27, 2023

PROJECT/APPLICATION: Exception to an existing 4.25 foot tall electronic vehicular gate

LOCATION: 380 Blackwell Drive

Pursuant to the Town Code, any interested person as defined in Section 29.10.020 may appeal to the Planning Commission any decision of the Director.

*Interested person means:*

1. *Residential projects.* Any person or persons or entity or entities who own property or reside within 1,000 feet of a property for which a decision has been rendered, and can demonstrate that their property will be injured by the decision.
2. *Non-residential and mixed-use projects.* Any person or persons or entity or entities who can demonstrate that their property will be injured by the decision.

**LIST REASONS WHY THE APPEAL SHOULD BE GRANTED:**

Main reason (as already indicated in prior communications) is for safety reasons. We have a young adult special needs son for which this gate will provide protection

We will continue to gather additional documentation to submit to the Town of Los Gatos. We are in the process of securing an attorney to represent us in this appeal

It has been difficulty to locate an available attorney on short notice - therefore we are requesting a delay in the appeal hearing date

**IMPORTANT:**

1. Appeal must be filed not more than ten (10) days after the decision is rendered by the Director of Community Development. If the tenth (10<sup>th</sup>) day is a Saturday, Sunday, or Town holiday, then the appeal may be filed on the workday immediately following the tenth (10<sup>th</sup>) day. Appeals are due by 4:00 P.M.
2. The appeal shall be set for the first regular meeting of the Planning Commission which the business of the Planning Commission will permit, more than five (5) days after the date of the filing of the appeal. The Planning Commission may hear the matter anew and render a new decision in the matter.
3. You will be notified, in writing, of the appeal date.
4. Contact the project planner to determine what material is required to be submitted for the public hearing.

**RETURN APPEAL FORM TO COMMUNITY DEVELOPMENT DEPARTMENT**

PRINT NAME: Lawrence W Cesnik

SIGNATURE: Lawrence W Cesnik

DATE: March 7, 2023

ADDRESS: 380 Blackwell Drive, Los Gatos, CA 95032

PHONE: [REDACTED]

EMAIL: [REDACTED]

\*\*\*\*\*

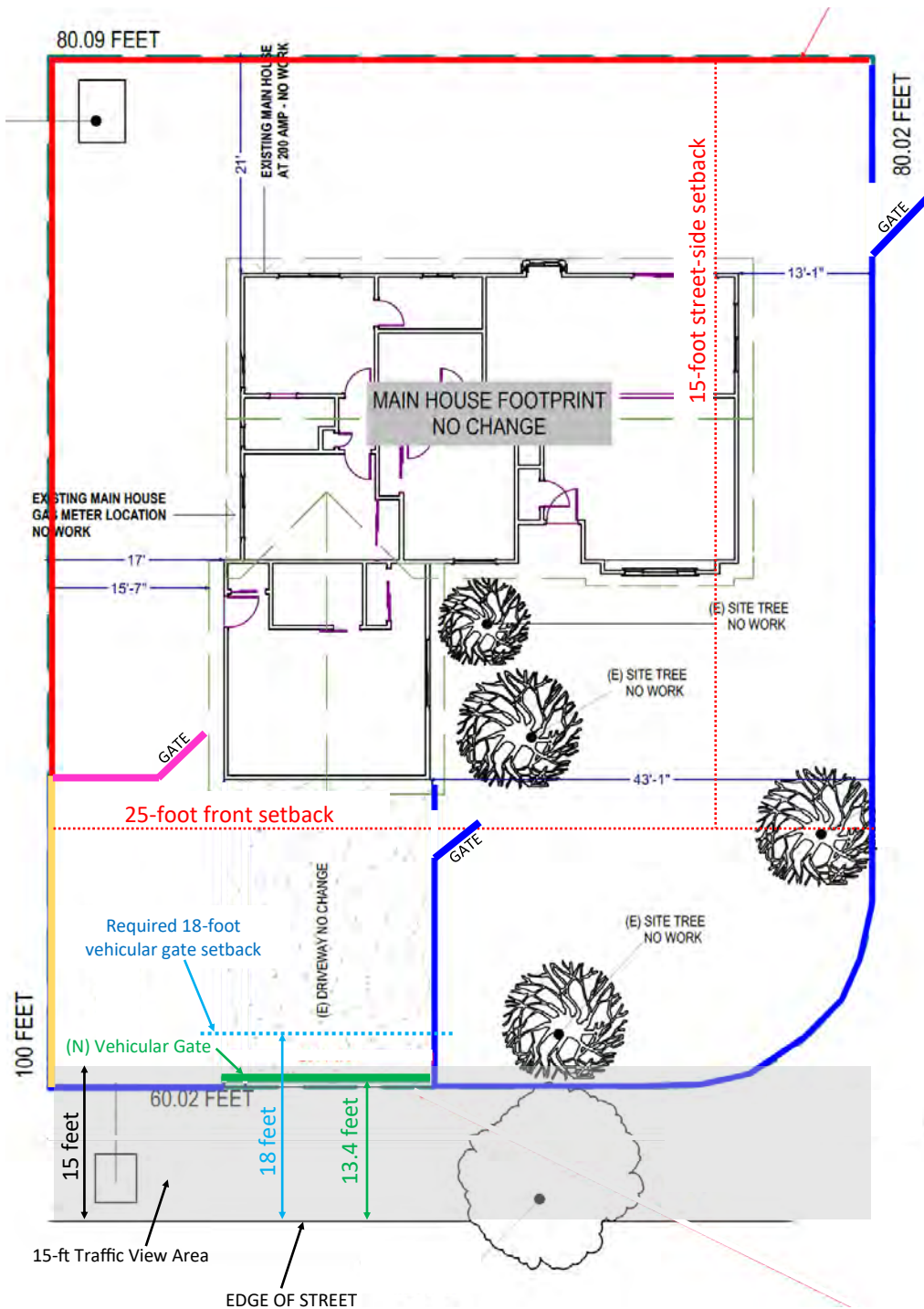
**OFFICE USE ONLY**

DATE OF PLANNING COMMISSION HEARING: \_\_\_\_\_

COMMISSION ACTION:	1. _____	DATE: _____
	2. _____	DATE: _____
	3. _____	DATE: _____

PLAPPEAL \$ 234.00 Residential  
PLAPPEAL \$ 934.00 Commercial  
PLAPPEAL \$ 95.00 Tree Appeals

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- (E) 6-ft solid wood fence
- (E) 7-ft solid wood fence
- (E) 4-ft masonry/picket fence
- (E) 4.25-ft solid wood fence
- (N) 4.25-ft vehicular gate

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**From:** Lawrence Cesnik [REDACTED]  
**Sent:** Friday, June 9, 2023 10:46 AM  
**To:** Sean Mullin <SMullin@losgatosca.gov>  
**Subject:** Fwd: Regarding 380 Blackwell electronic gate permit request- email #1

Hi Sean,

In the next few minutes ahead of your 11:00am cutoff for regular agenda, I will be submitting several emails to help document my case

Here is #1

Larry Cesnik  
[REDACTED] mobile

Begin forwarded message:

**From:** Ramin Zohoor [REDACTED]  
**Date:** October 28, 2022 at 5:59:02 PM PDT  
**To:** Allen Meyer <[AMeyer@losgatosca.gov](mailto:AMeyer@losgatosca.gov)>  
**Cc:** Lawrence Cesnik [REDACTED] Eli [REDACTED]  
**Subject:** Re: Regarding 380 Blackwell electronic gate permit request

Hello Allen.,

Hope you are doing well.

I was in the city on July 14th and I spoke with Savannah Van Akin in person. Situation was \_ The exterior fence which I hope you had a chance to see the location & heights were installed before final inspection. I have reached out to the city for revision and the outcome was we would need to go through an exception. That being said, I stopped by at the city to further discuss the options we would have with the non conforming fence and from what Savannah has mentioned was that the fence is over the allowed height , too close to the property line / street & it is in the corner lot which will limit the visibility and the exception won't most likely be approved. She has suggested for us to work on getting the fence adjusted and pushed back. WHICH brings me to the point why there is no exception / revision number as this discussion was done in person and as you can see in detail.

My question is \_ If you have seen the fence location, height that is being proposed do you agree the exception will be approved regardless of the location & corner lot ? We just went based on what the planner told us and we are hoping you could let us know differently so this can stay and ofcourse we will submit any further revisions required.

Thank you.

On Wed, Oct 26, 2022 at 11:46 AM Allen Meyer <[AMeyer@losgatosca.gov](mailto:AMeyer@losgatosca.gov)> wrote:  
Good morning Larry Ramin, and Eli,

What was the permit number for the vehicular gate that was submitted by Just Right Home Remodeling?

The next best step would be to submit a permit application for the vehicular gate.

EXHIBIT 9

Respectfully yours,

Allen Meyer • Code Compliance Officer  
Community Development Department • 110 E Main Street, Los Gatos CA 95030  
Ph: 408.399.5746 • [ameyer@losgatosca.gov](mailto:ameyer@losgatosca.gov)  
[www.losgatosca.gov](http://www.losgatosca.gov) • <https://www.facebook.com/losgatosca>

Code Compliance hours:  
7:00 AM – 3:30 PM, Monday – Friday

CONFIDENTIALITY DISCLAIMER

This e-mail is intended only for the use of the individual(s) named in this e-mail. If you receive this e-mail and are not a named recipient, any use, dissemination, distribution or copying of the e-mail is strictly prohibited. If you have received this communication in error, please immediately notify us at the above e-mail address.

-----Original Message-----

From: Lawrence Cesnik [REDACTED]  
Sent: Tuesday, October 25, 2022 9:02 PM  
To: Allen Meyer <[AMeyer@losgatosca.gov](mailto:AMeyer@losgatosca.gov)>  
Cc: Eli [REDACTED]; [REDACTED]  
Subject: Regarding 380 Blackwell electronic gate permit request

EXTERNAL SENDER

Hello Allen, Roy

I've been in touch this evening with the team of our contractor- Just Right Home Remodeling (Eli our lead contact & Ramin the architect ccd above)

They report that they did indeed submit the permit application and Ramin visited your office on July 14 to discuss it.

Based on our conversation today, I assume that the best next step is for them to re-submit- but am cc'ing all so that you can discuss in writing or by phone

Thanks again

Larry Cesnik  
[REDACTED] mobile  
**From:** Lawrence Cesnik [REDACTED]  
**Sent:** Friday, June 9, 2023 10:47 AM  
**To:** Sean Mullin <[SMullin@losgatosca.gov](mailto:SMullin@losgatosca.gov)>  
**Subject:** Fwd: Regarding 380 Blackwell electronic gate permit request- email #2

Larry Cesnik  
[REDACTED] mobile

Begin forwarded message:

**From:** Ramin Zohoor [REDACTED]  
**Date:** October 31, 2022 at 10:34:28 AM PDT  
**To:** Allen Meyer <[AMeyer@losgatosca.gov](mailto:AMeyer@losgatosca.gov)>  
**Cc:** Lawrence Cesnik [REDACTED], Eli [REDACTED], Roy Alba

<[ralba@losgatosca.gov](mailto:ralba@losgatosca.gov)>

**Subject: Re: Regarding 380 Blackwell electronic gate permit request**

Hi Allen.,

That is exactly what was discussed and brought to the planning department about the vehicle gates not the existing fences.

The discussion was for exception application of the vehicle gate which the planner Savannah Van Akin said the location., heights and what we are applying for does not get approved. She mentioned per what the neighborhood is and location of the fence its unlikely that we pay for full exception application and get it approved.

Question I am hoping to get an answer is if you think it would be a different situation where clients will be getting this approved as you see it location. ?

On Mon, Oct 31, 2022 at 10:30 AM Allen Meyer <[AMeyer@losgatosca.gov](mailto:AMeyer@losgatosca.gov)> wrote:

Good morning Ramin,

The citation that was issued on September 13, 2022 had nothing to do with the existing white picket fence, the citation is only about the vehicle gate which was installed without a permit. Please submit a permit application online for the unpermitted vehicular gate.

Thank you,



**Allen Meyer • Code Compliance Officer**

Community Development Department • 110 E Main Street, Los Gatos CA 95030

Ph: 408.399.5746 • [ameyer@losgatosca.gov](mailto:ameyer@losgatosca.gov)

[www.losgatosca.gov](http://www.losgatosca.gov) • <https://www.facebook.com/losgatosca>

Code Compliance hours:

7:00 AM – 3:30 PM, Monday – Friday

CONFIDENTIALITY DISCLAIMER

This e-mail is intended only for the use of the individual(s) named in this e-mail. If you receive this e-mail and are not a named recipient, any use, dissemination, distribution or copying of the e-mail is strictly prohibited. If you have received this communication in error, please immediately notify us at the above e-mail address.

**From:** Ramin Zohoor [REDACTED]

**Sent:** Friday, October 28, 2022 5:59 PM

**To:** Allen Meyer <[AMeyer@losgatosca.gov](mailto:AMeyer@losgatosca.gov)>

**Cc:** Lawrence Cesnik [REDACTED]; Eli [REDACTED]

**Subject:** Re: Regarding 380 Blackwell electronic gate permit request

Hello Allen.,

I was in the city on July 14th and I spoke with Savannah Van Akin in person. Situation was \_ The exterior fence which I hope you had a chance to see the location & heights were installed before final inspection. I have reached out to the city for revision and the outcome was we would need to go through an exception. That being said, I stopped by at the city to further discuss the options we would have with the non conforming fence and from what Savannah has mentioned was that the fence is over the allowed height , too close to the property line / street & it is in the corner lot which will limit the visibility and the exception won't most likely be approved. She has suggested for us to work on getting the fence adjusted and pushed back. WHICH brings me to the point why there is no exception / revision number as this discussion was done in person and as you can see in detail.

My question is \_ If you have seen the fence location, height that is being proposed do you agree the exception will be approved regardless of the location & corner lot ? We just went based on what the planner told us and we are hoping you could let us know differently so this can stay and ofcourse we will submit any further revisions required.

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Respectfully yours,

Allen Meyer • Code Compliance Officer  
Community Development Department • 110 E Main Street, Los Gatos CA 95030  
Ph: 408.399.5746 • [ameyer@losgatosca.gov](mailto:ameyer@losgatosca.gov)  
[www.losgatosca.gov](http://www.losgatosca.gov) • <https://www.facebook.com/losgatosca>

Code Compliance hours:  
7:00 AM – 3:30 PM, Monday – Friday

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-----Original Message-----

From: Lawrence Cesnik [REDACTED]  
Sent: Tuesday, October 25, 2022 9:02 PM  
To: Allen Meyer <[AMeyer@losgatosca.gov](mailto:AMeyer@losgatosca.gov)>  
Cc: Eli [REDACTED]  
Subject: Regarding 380 Blackwell electronic gate permit request

EXTERNAL SENDER

Hello Allen, Roy

I've been in touch this evening with the team of our contractor- Just Right Home Remodeling (Eli our



lead contact & Ramin the architect ccd above)

They report that they did indeed submit the permit application and Ramin visited your office on July 14 to discuss it.

Based on our conversation today, I assume that the best next step is for them to re-submit- but am cc'ing all so that you can discuss in writing or by phone

Thanks again

Larry Cesnik

mobile

**From:** Lawrence Cesnik

**Sent:** Friday, June 9, 2023 10:48 AM

**To:** Sean Mullin <SMullin@losgatosca.gov>

**Subject:** Fwd: Regarding 380 Blackwell electronic gate permit request- email #3

Larry Cesnik

mobile

Begin forwarded message:

**From:** Ramin Zohoor

**Date:** January 11, 2023 at 10:45:50 AM PST

**To:** Allen Meyer <[AMeyer@losgatosca.gov](mailto:AMeyer@losgatosca.gov)>

**Cc:** Lawrence Cesnik, Eli Roy Alba  
<[ralba@losgatosca.gov](mailto:ralba@losgatosca.gov)>

**Subject:** Re: Regarding 380 Blackwell electronic gate permit request

Hi Allen, This was resubmitted back into the original email account with the plans that were requested back in December.

We have sent those for an exception that was required by planning. Who should we send this ? Information might not be getting to you. Do we send to you directly?

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Thank you,



**Allen Meyer • Code Compliance Officer**

Community Development Department • 110 E Main Street, Los Gatos CA 95030

Ph: 408.399.5746 • [ameyer@losgatosca.gov](mailto:ameyer@losgatosca.gov)

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**From:** Allen Meyer

**Sent:** Wednesday, November 9, 2022 2:23 PM

**To:** Lawrence Cesnik [REDACTED]

**Cc:** Ramin Zohoor [REDACTED]; Eli [REDACTED]; Roy Alba  
<[ralba@losgatosca.gov](mailto:ralba@losgatosca.gov)>

**Subject:** RE: Regarding 380 Blackwell electronic gate permit request

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The citation appeal is a completely separate item from your exemption request.

Please let us know if you should have any questions.

Best,



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Hi Allen

I wanted to weigh in here as the property owner and have been in contact with our remodeling firm (Eli, Ramin)

If we need to file for an exception- we certainly will.

We will use points d &/ or e below - special security concern/ circumstance. As I explained in my original appeal, we have a special needs son whose safety is at risk if that height of gate is not in place.

Please advise if it will be sufficient for me to re-send you the appeal paperwork that you had returned- or should Done Right Home Remodeling file the official request for exception on your online portal?

Please advise, thank you!

Larry Cesnik

[REDACTED] mobile

On Oct 31, 2022, at 2:19 PM, Allen Meyer <[AMeyer@losgatosca.gov](mailto:AMeyer@losgatosca.gov)> wrote:

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Town Code Section 29.40.0315. - Height, materials and design, and location.

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(c) Location.

(3) Vehicular gates shall be set back from the edge of the adjacent street a minimum of eighteen (18) feet as measured along the centerline of the driveway. A greater setback may be required when a gated entrance serves more than one (1) house.

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  1. A special privacy concern exists that cannot be practically addressed by additional landscaping or tree screening; or
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3. At public utility facilities, critical infrastructure, and emergency access locations, exceptions may be granted where strict enforcement of these regulations will result in a security or safety concern.
4. A special security concern exists that cannot be practically addressed through alternatives.
5. A special circumstance exists, including lot size or configuration, where strict enforcement of these regulations would result in undue hardship.

Please let me know if you intend to apply for an exception, or remove the vehicular gate.

Thank you,

Allen

**From:** Ramin Zohoor [REDACTED]  
**Sent:** Monday, October 31, 2022 10:34 AM  
**To:** Allen Meyer <[AMeyer@losgatosca.gov](mailto:AMeyer@losgatosca.gov)>  
**Cc:** Lawrence Cesnik [REDACTED]; Eli [REDACTED]; Roy Alba <[ralba@losgatosca.gov](mailto:ralba@losgatosca.gov)>  
**Subject:** Re: Regarding 380 Blackwell electronic gate permit request

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That is exactly what was discussed and brought to the planning department about the vehicle gates not the existing fences.

The discussion was for exception application of the vehicle gate which the planner Savannah Van Akin said the location, heights and what we are applying for does not get approved. She mentioned per what the neighborhood is and location of the fence its unlikely that we pay for full exception application and get it approved.

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Thank you,



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**From:** Ramin Zohoor [REDACTED]

**Sent:** Friday, October 28, 2022 5:59 PM

**To:** Allen Meyer <[AMeyer@losgatosca.gov](mailto:AMeyer@losgatosca.gov)>

**Cc:** Lawrence Cesnik [REDACTED] Eli <[REDACTED]>

**Subject:** Re: Regarding 380 Blackwell electronic gate permit request

Hello Allen.,

Hope you are doing well.

I was in the city on July 14th and I spoke with Savannah Van Akin in person. Situation was \_ The exterior fence which I hope you had a chance to see the location & heights were installed before final inspection. I have reached out to the city for revision and the outcome was we would need to go through an exception. That being said, I stopped by at the city to further discuss the options we would have with the non conforming fence and from what Savannah has mentioned was that the fence is over the allowed height , too close to the property line / street & it is in the corner lot which will limit the visibility and the exception won't most likely be approved. She has suggested for us to work on getting the fence adjusted and pushed back. Which brings me to the point why there is no exception / revision number as this discussion was done in person and as you can see in detail.

My question is \_ If you have seen the fence location, height that is being proposed do you agree the exception will be approved regardless of the location & corner lot ? We just went based on what the planner told us and we are hoping you could let us know differently so this can stay and ofcourse we will submit any further revisions required.

Thank you.

On Wed, Oct 26, 2022 at 11:46 AM Allen Meyer <[AMeyer@losgatosca.gov](mailto:AMeyer@losgatosca.gov)> wrote:

Good morning Larry Ramin, and Eli,

What was the permit number for the vehicular gate that was submitted by Just Right Home Remodeling?

The next best step would be to submit a permit application for the vehicular gate.

Respectfully yours,

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Subject: Regarding 380 Blackwell electronic gate permit request

EXTERNAL SENDER

Hello Allen, Roy

I've been in touch this evening with the team of our contractor- Just Right Home Remodeling (Eli our lead contact & Ramin the architect ccd above)

They report that they did indeed submit the permit application and Ramin visited your office on July 14 to discuss it.

Based on our conversation today, I assume that the best next step is for them to re-submit- but am cc'ing all so that you can discuss in writing or by phone

Thanks again

Larry Cesnik

[REDACTED] mobile

**From:** Lawrence Cesnik [REDACTED]

**Sent:** Friday, June 9, 2023 10:48 AM

**To:** Sean Mullin <SMullin@losgatosca.gov>

**Subject:** Fwd: Regarding 380 Blackwell electronic gate permit request- email #4

Larry Cesnik

[REDACTED] mobile

Begin forwarded message:

**From:** Ramin Zohoor <[REDACTED]>

**Date:** January 17, 2023 at 9:50:58 AM PST

**To:** Allen Meyer <[AMeyer@losgatosca.gov](mailto:AMeyer@losgatosca.gov)>

**Cc:** Lawrence Cesnik <[REDACTED]> Eli [REDACTED], Roy Alba  
<[ralba@losgatosca.gov](mailto:ralba@losgatosca.gov)>

**Subject:** Re: Regarding 380 Blackwell electronic gate permit request

Hello Allen,

Hope you are doing well. This should be in under PRE23-00053.

Let me know if anything else please needed.

On Wed, Jan 11, 2023 at 11:01 AM Allen Meyer <[AMeyer@losgatosca.gov](mailto:AMeyer@losgatosca.gov)> wrote:

Ramin,

That was finaled last May. Not sure if you can reopen that permit.

You should probably open a new permit as stated in my November 9, 2022 email: In order to move forward with your vehicular gate project, please submit a Planning application at: <https://www.losgatosca.gov/897/Planning>. In this application you will submit a letter stating the reasons for the fence height/gate location exemption request.

Thank you,

Allen

**From:** Ramin Zohoor <[REDACTED]>

**Sent:** Wednesday, January 11, 2023 10:55 AM

**To:** Allen Meyer <[AMeyer@losgatosca.gov](mailto:AMeyer@losgatosca.gov)>

**Cc:** Lawrence Cesnik <[REDACTED]>; Eli [REDACTED]; Roy Alba  
<[ralba@losgatosca.gov](mailto:ralba@losgatosca.gov)>

**Subject:** Re: Regarding 380 Blackwell electronic gate permit request

Under [B21-1000](#)

Did you want me to resubmit ? Same drawings set with the fencing line shown.

On Wed, Jan 11, 2023 at 10:51 AM Allen Meyer <[AMeyer@losgatosca.gov](mailto:AMeyer@losgatosca.gov)> wrote:

Ramin,

What permit number did you resubmit to, I don't see it?

Allen

**From:** Ramin Zohoor [REDACTED] >  
**Sent:** Wednesday, January 11, 2023 10:46 AM  
**To:** Allen Meyer <[AMeyer@losgatosca.gov](mailto:AMeyer@losgatosca.gov)>  
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**Subject:** Re: Regarding 380 Blackwell electronic gate permit request

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**Sent:** Wednesday, November 9, 2022 2:23 PM



**To:** Lawrence Cesnik <[REDACTED]>  
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**Subject:** Re: Regarding 380 Blackwell electronic gate permit request

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<image001.jpg>

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Thanks again

Larry Cesnik  
[REDACTED] mobile

From: Lawrence Cesnik <[REDACTED]>  
Sent: Friday, June 9, 2023 10:50 AM  
To: Sean Mullin <[SMullin@losgatosca.gov](mailto:SMullin@losgatosca.gov)>  
Subject: 380 Blackwell fence/gate exception- email #6

[EXTERNAL SENDER]

Larry Cesnik  
[REDACTED] mobile







GRADING and DEMO NOTES:

1. CONTACT PUBLIC WORKS, FOR DRAINAGE AND FINAL GRADE INSPECTION, WHICH INCLUDES DRAIN LINES AND ROOF DRAINS/DOWN SPOUTS.
2. ALL PUBLIC IMPROVEMENTS MUST BE COMPLETED PRIOR TO OCCUPANCY.
3. CONTRACTOR IS RESPONSIBLE FOR DUST CONTROL AND INSURING THE AREA ADJACENT TO THE WORK IS LEFT IN A CLEAN CONDITION.
4. THE CONTRACTOR SHALL REVIEW STD. DETAIL 6-4 ON TREE PROTECTION PRIOR TO ACCOMPLISHING ANY WORK OR REMOVING ANY TREES.
5. UTILIZE BEST MANAGEMENT PRACTICES (BMP'S), AS REQUIRED BY THE STATE WATER RESOURCES CONTROL BOARD, FOR ANY ACTIVITY, WHICH DISTURBS SOIL.
6. ALL NEW ELECTRICAL SERVICE (POWER, PHONE, AND OR CABLE) SHALL BE UNDER GROUND.
7. TO INITIATE RELEASE OF BONDS, CONTACT THE PUBLIC WORKS INSPECTOR FOR FINAL INSPECTION.
8. ALL DOWNSPOUTS TO BE RELEASED TO THE GROUND SURFACE, DIRECTED AWAY FROM BUILDING FOUNDATIONS AND DIRECTED TO LANDSCAPE AREAS.
9. PRIOR TO BEGINNING ANY WORK WITHIN THE PUBLIC RIGHT OF WAY, THE CONTRACTOR WILL BE RESPONSIBLE FOR PULLING AN ENCROACHMENT PERMIT FROM THE PUBLIC WORKS DEPARTMENT.
10. PROVIDE MIN. 5% GRADE SLOPE AWAY FROM FOUNDATION FOR A MIN. DISTANCE OF 10 FEET MEASURE PERPENDICULAR TO THE FACE OF THE WALL. WITH EXCEPTION:

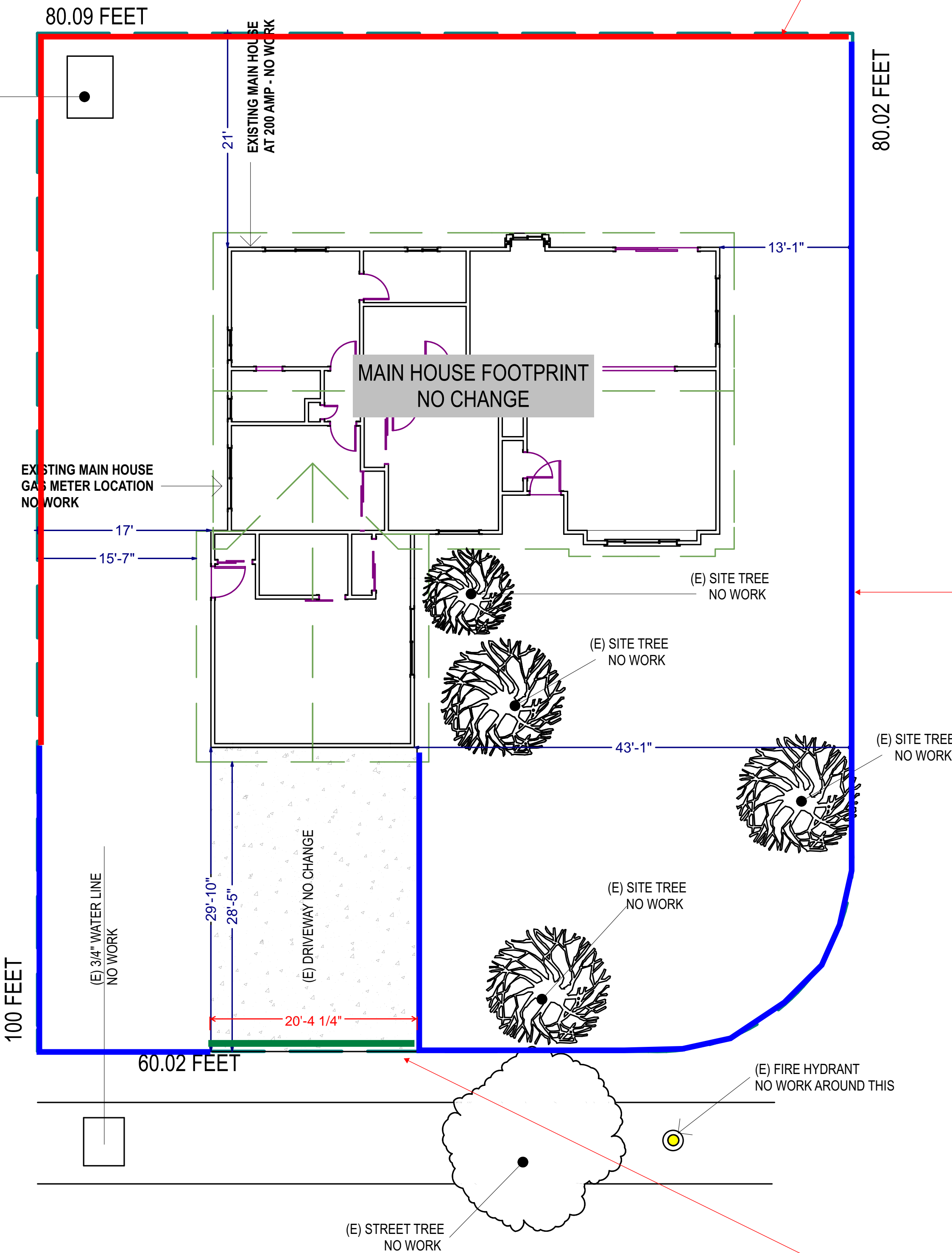
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11. (E) DRAINAGE SHALL REMAIN THROUGHOUT CONSTRUCTION.

TREE PROTECTION NOTES:

1. A PLOT PLAN SHALL BE PREPARED DESCRIBING THE RELATIONSHIP OF PROPOSED GRADING AND UTILITY TRENCHING TO THE TREES DESIGNATED FOR PRESERVATION. CONSTRUCTION AND GRADING SHOULD NOT SIGNIFICANTLY RAISE OR LOWER THE GROUND LEVEL BENEATH TREE DRIP LINES. IF THE GROUND LEVEL IS PROPOSED FOR MODIFICATION BENEATH THE DRIP LINE, THE ARCHITECT/ARBORIST SHALL ADDRESS AND MITIGATE THE IMPACT TO THE TREE(S).
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5. TREES WHICH REQUIRE ANY DEGREE OF FILL AROUND THE NATURAL GRADE SHALL BE GUARDED BY RECOGNIZED STANDARDS OF TREE PROTECTION AND DESIGN OF TREE WELLS.
6. THE AREA UNDER THE DRIP LINE OF THE TREE SHALL BE KEPT CLEAN. NO CONSTRUCTION MATERIALS NOR CHEMICAL SOLVENTS SHALL BE STORED OR DUMPED UNDER A TREE.
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11. TREE PROTECTION REGULATIONS SHALL BE POSTED ON PROTECTIVE FENCING AROUND TREES TO BE PROTECTED.

1 EXISTING SITE PLAN (AREA OF WORK)  
SC : 1/8" = 1'-0"

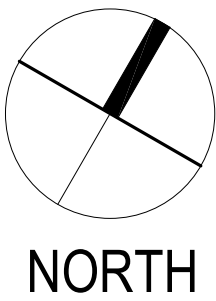
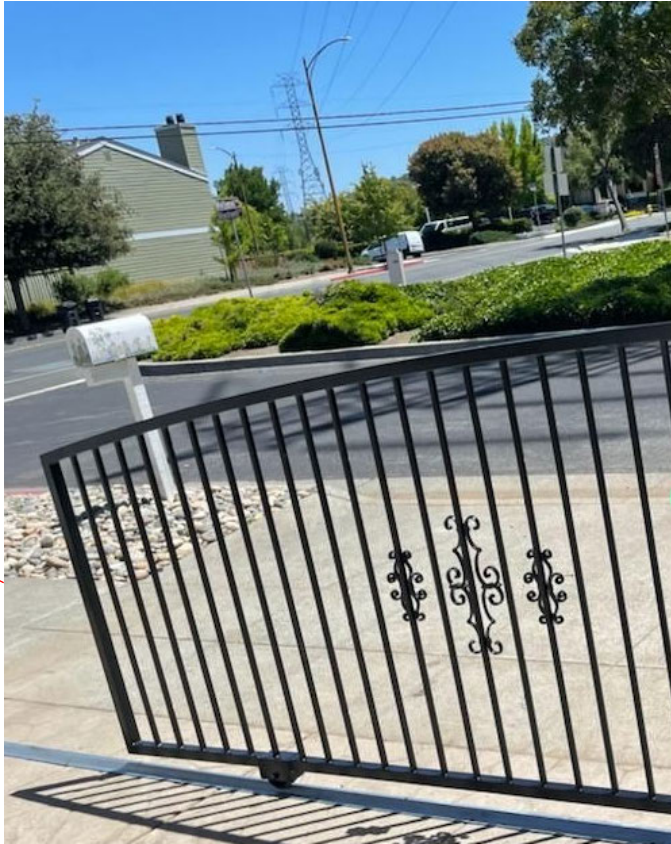


LEGEND:

- PROPERTY LINE
- BLDG FOOT PRINT
- EXISTING 6 FT WOOD FENCE
- EXISTING 4 FT MASONARY & WOOD FENCE - NO WORK
- PROPOSED ROLL METAL GATE FOR SAFETY

GRAPHIC SCALE : 1/8" INCH = 1' FEET

0 2 4 6 8 10 20 30



ADDITION and REMODELING FOR:

BLACKWELL DR.,  
RESIDENCE

380 BLACKWELL DR.,  
LOS GATOS, CA 95032

REVISION TABLE:



SHEET TITLE:

SITE PLAN

PROJECT ID :  
DATE : NOV 2022  
SCALE : 1/8" = 1'  
DRAWN BY : RZ

SHEET NUMBER:

A-01

OWNERSHIP:

*R. Zahoor*



From: Lawrence Cesnik [REDACTED]  
Sent: Friday, June 9, 2023 10:50 AM  
To: Sean Mullin <SMullin@losgatosca.gov>  
Subject: 380 Blackwell fence/gate exception- email #6

[EXTERNAL SENDER]

Larry Cesnik  
[REDACTED] mobile





**TOWN OF LOS GATOS**  
**COMMUNITY DEVELOPMENT DEPARTMENT**  
 110 E. Main Street  
 Los Gatos, CA 95030

**APPEAL OF THE DECISION OF**  
**DIRECTOR OF COMMUNITY DEVELOPMENT**

**PLEASE TYPE or PRINT NEATLY**

I, the undersigned, do hereby appeal a decision of the DIRECTOR OF COMMUNITY DEVELOPMENT as follows:

DATE OF DECISION: February 27, 2023

PROJECT/APPLICATION: Exception to an existing 4.25 foot tall electronic vehicular gate

LOCATION: 380 Blackwell Drive

Pursuant to the Town Code, any interested person as defined in Section 29.10.020 may appeal to the Planning Commission any decision of the Director.

*Interested person means:*

1. *Residential projects.* Any person or persons or entity or entities who own property or reside within 1,000 feet of a property for which a decision has been rendered, and can demonstrate that their property will be injured by the decision.
2. *Non-residential and mixed-use projects.* Any person or persons or entity or entities who can demonstrate that their property will be injured by the decision.

**LIST REASONS WHY THE APPEAL SHOULD BE GRANTED:**

Main reason (as already indicated in prior communications) is for safety reasons. We have a young adult special needs son for which this gate will provide protection

We will continue to gather additional documentation to submit to the Town of Los Gatos. We are in the process of securing an attorney to represent us in this appeal

It has been difficulty to locate an available attorney on short notice - therefore we are requesting a delay in the appeal hearing date

**IMPORTANT:**

1. Appeal must be filed not more than ten (10) days after the decision is rendered by the Director of Community Development. If the tenth (10<sup>th</sup>) day is a Saturday, Sunday, or Town holiday, then the appeal may be filed on the workday immediately following the tenth (10<sup>th</sup>) day. Appeals are due by 4:00 P.M.
2. The appeal shall be set for the first regular meeting of the Planning Commission which the business of the Planning Commission will permit, more than five (5) days after the date of the filing of the appeal. The Planning Commission may hear the matter anew and render a new decision in the matter.
3. You will be notified, in writing, of the appeal date.
4. Contact the project planner to determine what material is required to be submitted for the public hearing.

**RETURN APPEAL FORM TO COMMUNITY DEVELOPMENT DEPARTMENT**

PRINT NAME: Lawrence W Cesnik

SIGNATURE: \_\_\_\_\_

DATE: March 7, 2023

ADDRESS: 380 Blackwell Drive, Los Gatos, CA 95032

PHONE: [REDACTED]

EMAIL: [REDACTED]

\*\*\*\*\*

**OFFICE USE ONLY**

DATE OF PLANNING COMMISSION HEARING: \_\_\_\_\_

COMMISSION ACTION:	1. _____	DATE: _____
	2. _____	DATE: _____
	3. _____	DATE: _____

PLAPPEAL \$ 234.00 Residential  
 PLAPPEAL \$ 934.00 Commercial  
 PLAPPEAL \$ 95.00 Tree Appeals

From: Lawrence Cesnik <[REDACTED]>  
Sent: Friday, June 9, 2023 10:59 AM  
To: Sean Mullin <SMullin@losgatosca.gov>  
Subject: 380 Blackwell gate exception - email #8



## TOWN OF LOS GATOS

COMMUNITY DEVELOPMENT DEPARTMENT  
PLANNING DIVISION  
(408) 354-6872 Fax (408) 354-7593

CIVIC CENTER  
110 E. MAIN STREET  
LOS GATOS, CA 95030

March 6, 2023

Larry Cesnik  
{Sent via Email}

**RE: AMENDED ACTION LETTER**  
**380 Blackwell Drive**  
Fence Height Exception (FHE-23-002)

Requesting approval for an exception to an existing 4.25-foot-tall automated vehicular gate within the required front yard setback on property zoned R-1:8. APN 424-12-027.  
PROPERTY OWNERS: Larry Cesnik and Martha Johnson  
APPLICANT: Ramin Zohoor

The Los Gatos Community Development Department and Public Works Department have reviewed the referenced application for a fence height exception pursuant to [Town Code Section 29.40.0320](#). Based upon review by the Parks and Public Works Department, staff is unable to approve the application due to the unsafe conditions caused by a vehicular gate lacking the 18-foot setback required by Town Code Section [29.40.0315\(c\)\(3\)](#), and its proximity to the intersection adjacent to the property. Sufficient justification for conditions listed in Section 29.40.0320 was not provided.

Based on the foregoing, the Los Gatos Community Development Department has **denied** the request on February 27, 2023.

PLEASE NOTE: Pursuant to Section 29.20.255 of the Town Code, this decision may be appealed by any interested party to the Planning Commission within 10 days of the denial date. Appeals, with the completed Appeal Form and appeal fee payment, must be submitted **in person** to the Town Clerk's office within 10 days from the date of denial, or **by 4:00 p.m. on March 9, 2023**.

If you have any questions concerning this decision, please contact me at (408) 354-6873 or via email at [PBeeuwsaert@LosGatosCA.gov](mailto:PBeeuwsaert@LosGatosCA.gov).

Sincerely,

Peggy Beeuwsaert  
Assistant Planner

**From:** Lawrence Cesnik <[REDACTED]>  
**Sent:** Friday, June 9, 2023 11:01 AM  
**To:** Sean Mullin <SMullin@losgatosca.gov>  
**Subject:** 380 Blackwell Dr follow up - June 14 hearing

[EXTERNAL SENDER]

Hello Sean

You should have received 8 emails with various communications & documents on this case

I will very likely email you 1 or 2 more next week to be included in the addendum

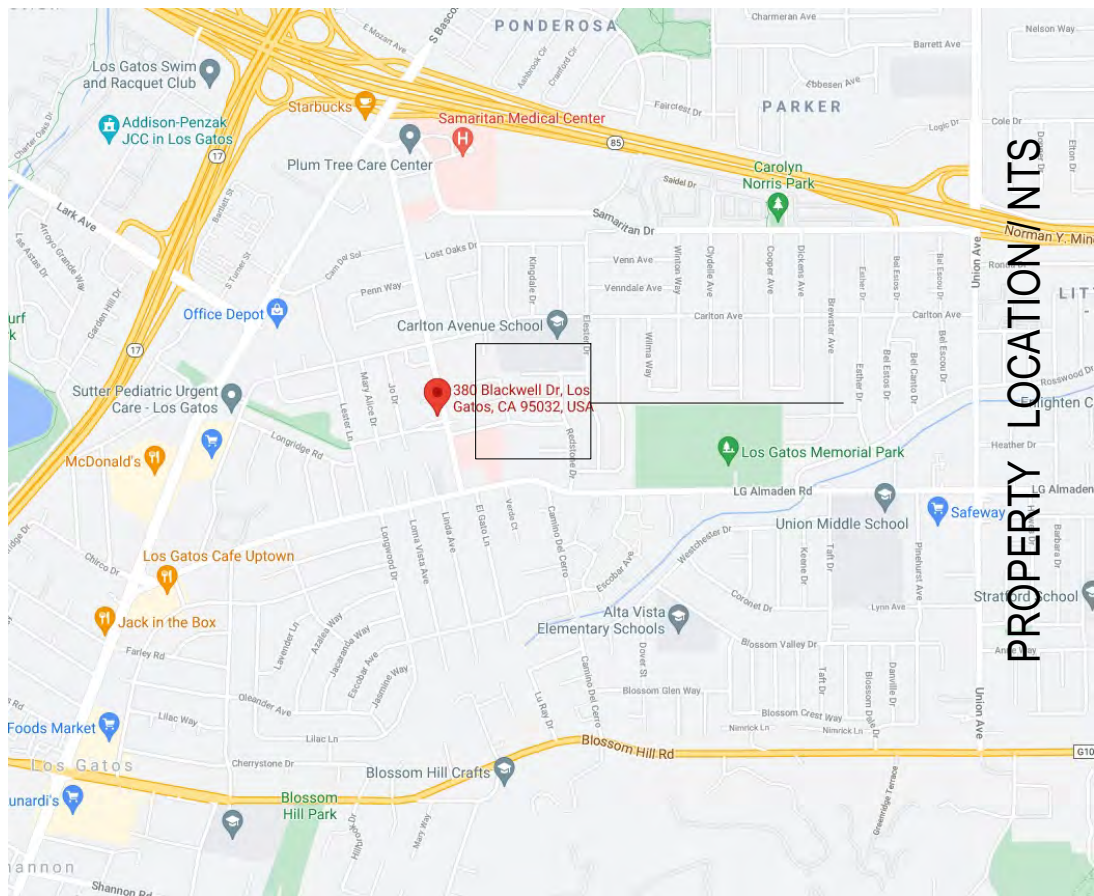
Thank you

Larry Cesnik  
1 [REDACTED] mobile

# BLACKWELL DR., RESIDENCE

LOS GATOS, CA

## VICINITY MAP:



## PROJECT DATA:

ASSESSOR'S PARCEL NUMBER:	424-12-027
PROJECT TYPE:	GARAGE CONVERSION
PROJECT LOCATION:	380 BLACKWELL DR., LOS GATOS, CA
ZONING:	R-1.8
OCCUPANCY GROUP:	R-3
CONSTRUCTION TYPE:	V - B
NUMBER OF FLOORS:	MAIN HOUSE: 1/ ADU: 1
FIRE PROTECTION:	NO SPRINKLER
BEDROOM NUMBER:	MAIN HOUSE: 3/ ADU: 1 (STUDIO)
BATHROOM NUMBER:	MAIN HOUSE: 2/ ADU: 1

## CODE EDITIONS:

A.	CALIFORNIA RESIDENTIAL	2019	EDITION
B.	CALIFORNIA BUILDING	2019	EDITION
C.	CALIFORNIA GREEN BUILDING	2019	EDITION
D.	CALIFORNIA MECHANICAL	2019	EDITION
E.	CALIFORNIA PLUMBING	2019	EDITION
F.	CALIFORNIA ELECTRICAL	2019	EDITION
G.	CALIFORNIA ENERGY:	2019	EDITION
H.	CALIFORNIA FIRE:	2019	EDITION
	ANY OTHER APPLICABLE LOCAL AND STATE LAWS AND REGULATIONS.	2019	EDITION

## GENERAL NOTES:

ALL WORK DESCRIBED IN THE DRAWINGS SHALL BE VERIFIED FOR DIMENSION, GRADE, EXTENT AND COMPATIBILITY TO THE EXISTING SITE. ANY DISCREPANCIES AND UNEXPECTED CONDITIONS THAT AFFECT OR CHANGE THE WORK DESCRIBED IN THE CONTRACT DOCUMENTS SHALL BE BROUGHT TO THE DESIGNER' ATTENTION IMMEDIATELY. DO NOT PROCEED WITH THE WORK IN THE AREA OF DISCREPANCIES UNTIL ALL SUCH DISCREPANCIES ARE RESOLVED. IF THE CONTRACTOR CHOOSES TO DO SO HE SHALL BE PRECEDING AT HIS OWN RISK.

OMISSIONS FROM THE DRAWINGS AND SPECIFICATIONS, OR THE MIS-DESCRIPTION OF THE WORK WHICH IS MANIFESTLY NECESSARY TO CARRY OUT THE INTENT OF THE DRAWINGS AND SPECIFICATIONS, OR WHICH IS CUSTOMARILY REFORMED, SHALL NOT RELIEVE THE CONTRACTOR FROM PERFORMING SUCH OMITTED OR MIS-DESCRIBED DETAILS OF THE WORK AS IF FULLY AND COMPLETELY SET FORTH AND DESCRIBED IN THE DRAWINGS AND SPECIFICATIONS.

SITE CONDITIONS: ALL CONTRACTORS AND SUB-CONTRACTORS SHALL VERIFY DIMENSIONS AND CONDITIONS AT THE SITE PRIOR TO COMMENCEMENT OF THEIR WORK. FAILURE TO DO SO SHALL NOT RELEASE THEM FROM THE RESPONSIBILITY OF ESTIMATING THE WORK. IF ANY VARIATION, DISCREPANCY OR OMISSION (BETWEEN THE INTENT OF THESE CONTRACT DOCUMENTS AND THE EXISTING CONDITIONS ARE FOUND, THE CONTRACTOR OR SUB-CONTRACTOR SHALL NOTIFY DESIGNER IN WRITING AND OBTAIN WRITTEN RESOLUTION FROM DESIGNER PRIOR TO PROCEEDING WITH ANY RELATED WORK.

## PROJECT CONTACT:

OWNER: CESNIK LARRY W AND JOHNSON MARTHA A  
380BLACKWELL DR.,  
LOS GATOS, CA 95032  
TEL : ---  
EMAIL: ---

DESIGNER: RAMIN ZOHOOR  
DONE RIGHT HOME REMODELING  
1825 DE LA CRUZ BLVD, #206  
SANTA CLARA, CA 95050  
TEL: 408.497.5071  
EMAIL: ZOHOOR.RAMIN@GMAIL.COM  
LIC. 1002689

BUILDER: DONE RIGHT HOME REMODELING  
1825 DE LA CRUZ BLVD, #203  
SANTA CLARA, CA 95050  
TEL: 800-816-0000  
LIC. 1002689  
EMAIL: Donerightremodeling1@gmail.com

## DRAWING INDEX:

A-00.01: COVER SHEET  
BMP SHEET  
A-01: ARCH. SITE PLAN

## BUILDER NOTES

1) TO BE VERIFIED A BACKWATER VALVE IS INSTALLED DUE TO PLUMBING WORK. TOWN CODE SECTION 6.40.020 REQUIRED AN APPROVED BACKWATER VALVE ON DRAINAGE PIPING SERVING FIXTURES THAT HAVE FLOOD LEVEL RIMS LESS THAN 12-INCHES ABOVE THE ELEVATION OF THE NEXT UPSTREAM MANHOLE. CPC 710.0

2) BUILDER MUST PROVIDE THE HOMEOWNER WITH A LUMINARIES SCHEDULE (AS REQUIRED IN TITLE 24 CALIFORNIA CODE OF REGULATIONS, PART 1, 10-103(b)) THAT INCLUDES A LIST OF LAMPS INSTALLED IN THE LUMINARIES.

## SCOPE OF WORK:

- LEGALIZING INSTALLATION OF UN-PERMITTED AUTOMATED SAFETY GATE AT THE FRONT OF THE PROPERTY.
- GATE AT HEIGHT OF 51 INCHES IN FRONT OF PROPERTY TO BE INSTALLED.

## ABBREVIATIONS:

ABV.	Above	FDN.	Foundation	PLT.	Plate
A/C	Air Conditioner	FLR.	Floor	P.L.	Property line
A.D.	Access Door	FURN.	Furnace	PLYWD.	Plywood
ADD.	Addition	G.C.	General Contractor	PWR.	Power
A.F.F.	Above Finished Floor	G.F.C.I.	Ground Fault Circuit Interrupt	R.O.	Rough Opening
A.F.G.	Above Finished Grade	GYP.	Gypsum	R.O.W.	Right of way
B.L.	Building Line	H.B.	Hose bib	REFG.	Refrigerator
BLDG.	Building	HGT.	Height	REF.	Reference
B.O.	Bottom of	HR.	Hour	REV.	Revision
BTM.	Bottom	H.R.	Handrail	RMV.	Remove
CABT.	Cabinet	HTR.	Heater	S.C.	Self-Closing
C.D.	Construction document	H.V.A.C.	Heating, Venting and Air Conditioning	SCHED.	Schedule
C.L.	Center Line	INSUL.	Insulation	S.D.	Smoke detector
CL.	Closet	INT.	Interior	SECT.	Section
CLG.	Ceiling	LAM.	Laminate	SHT.	Sheet
C.O.	Clean Out	LAV.	Lavatory	T.O.C.	Top of curb
CONC.	Concrete	MAX.	Maximum	T.O.F.	Top of footing
D.S.	Down spout	MED.	Medium	TH.	Threshold
D/W	Dishwasher	MIN.	Minimum	TYP.	Typical
DBL.	Double	MTL.	Metal (steel)	UNF.	Unfinished
DEMO.	Demolition	MUL.	Mullion	W.C.	Toilet (water closet)
DIA.	Diameter	N.T.S.	Not to scale	WCT.	Wainscot
DR.	Door	N.F.C.	Not for construction	W.H.	Water Heater
ELEV.	Elevation	O.C.	On center	W.I.	Wrought Iron
EXIST.	Existing	O.H.	Overhead	W.I.C.	Walk In Closet
EXT.	Exterior	OPNG.	Opening	YD.	Yard

### ADDITION and REMODELING FOR

**BLACKWELL DR.,  
RESIDENCE**

380 BLACKWELL DR.,  
LOS GATOS, CA 95032

REVISION TABLE:



**SHEET TITLE:**

# COVER SHEET

PROJECT ID :  
DATE : NOV 2021  
SCALE :  
DRAWN BY : R  
DONE RIGHT HOME REMODEL

**SHEET NUMBER**

# A-00.01

**OWNERSHIP:**

A. Zohoor



GRADING and DEMO NOTES:

1. CONTACT PUBLIC WORKS, FOR DRAINAGE AND FINAL GRADE INSPECTION, WHICH INCLUDES DRAIN LINES AND ROOF DRAINS/DOWN SPOUTS.
2. ALL PUBLIC IMPROVEMENTS MUST BE COMPLETED PRIOR TO OCCUPANCY.
3. CONTRACTOR IS RESPONSIBLE FOR DUST CONTROL AND INSURING THE AREA ADJACENT TO THE WORK IS LEFT IN A CLEAN CONDITION.
4. THE CONTRACTOR SHALL REVIEW STD. DETAIL 6-4 ON TREE PROTECTION PRIOR TO ACCOMPLISHING ANY WORK OR REMOVING ANY TREES.
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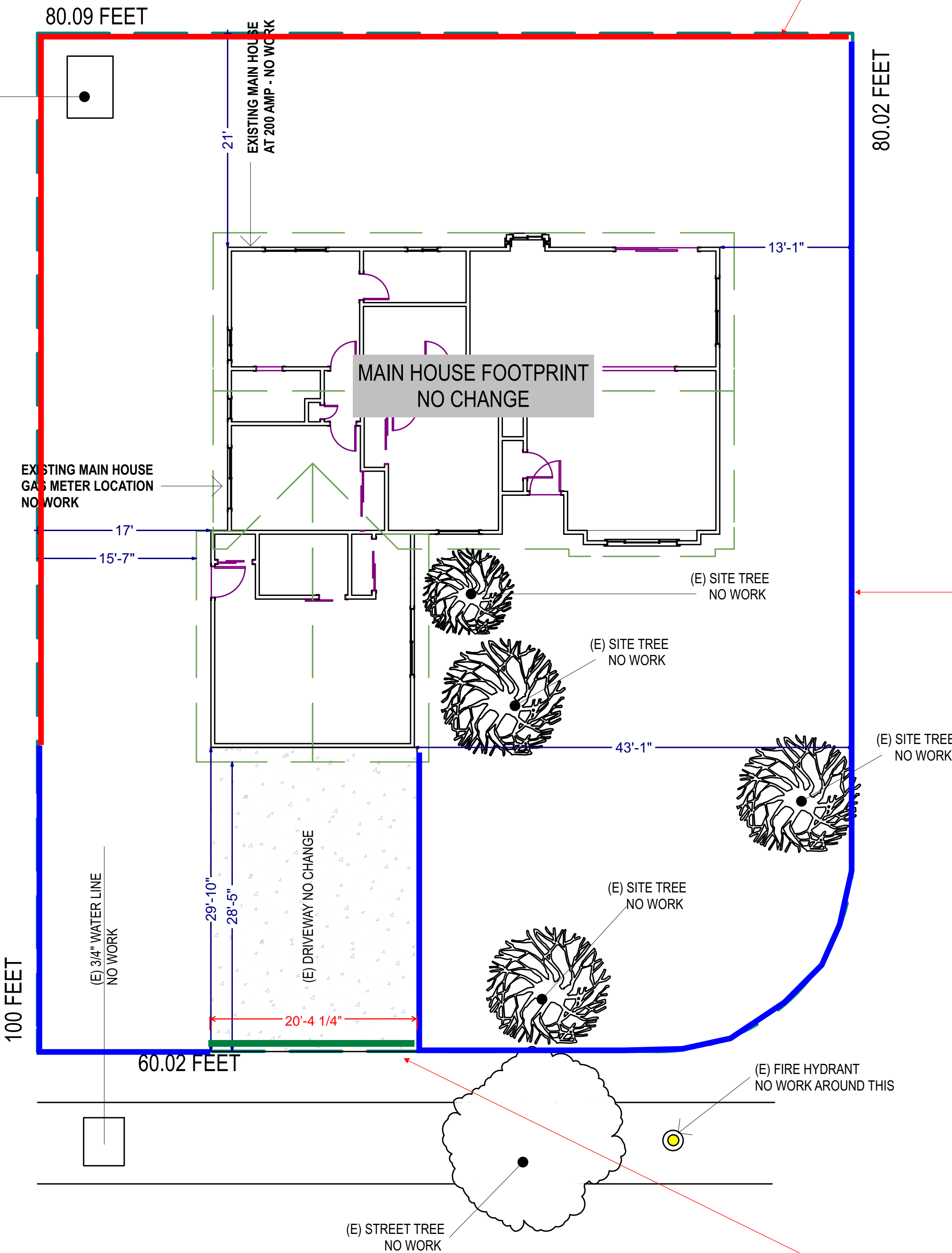
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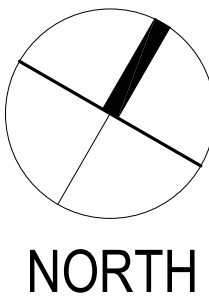
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LEGEND:

- PROPERTY LINE
- BLDG FOOT PRINT
- EXISTING 6 FT WOOD FENCE
- EXISTING 4 FT MASONARY & WOOD FENCE - NO WORK
- PROPOSED ROLL METAL GATE FOR SAFETY
- GRAPHIC SCALE : 1/8" INCH = 1' FEET
- 0 2 4 6 8 10 20 30



ADDITION and REMODELING FOR:

**BLACKWELL DR.,  
RESIDENCE**

380 BLACKWELL DR.,  
LOS GATOS, CA 95032

REVISION TABLE:



SHEET TITLE:

**SITE PLAN**

PROJECT ID :  
DATE : NOV 2022  
SCALE : 1/8" = 1'  
DRAWN BY : RZ

SHEET NUMBER:

**A-01**

OWNERSHIP:

*R. Zahoor*





**TOWN OF LOS GATOS  
PLANNING COMMISSION  
REPORT**

MEETING DATE: 6/14/2023

ITEM NO: 2

DESK ITEM

---

DATE: June 13, 2023  
TO: Planning Commission  
FROM: Joel Paulson, Community Development Director  
SUBJECT: Consider an Appeal of a Community Development Director Decision to Deny a Fence Height Exception Request for Construction of an Automated Vehicular Gate Exceeding the Maximum Height and with Reduced Setbacks on Property Zoned R-1:8. **Located at 380 Blackwell Drive.** APN 424-12-027. Categorically Exempt Pursuant to CEQA Guidelines Section 15303 (e): New Construction or Conversion of Small Structures. Fence Height Exception Application FHE-23-002. PROPERTY OWNER: Larry Cesnik and Martha Johnson. APPELLANT: Larry Cesnik. APPLICANT: Ramin Zohoor. PROJECT PLANNER: Sean Mullin.

REMARKS:

Exhibit 11 includes additional justification for the vehicular gate from the appellant.

The following information is provided in response to Planning Commissioner questions regarding the appeal.

1. Is it feasible for the homeowner to submit an application for reasonable accommodation based on his disabled son and for this hearing to be continued for a period of time to allow him to do so?

STAFF RESPONSE: An application for reasonable accommodation is a separate application independent of the application for the fence height exception. The reasonable accommodation application has its own set of application requirements and is decided upon by the Community Development Director. The Planning Commission's action on the appeal of the denial of the fence height exception application would have no impact on the property owner's ability to apply for reasonable accommodation in the future.

2. Is there a written report or memorandum from Public Works concerning the impairment of the view caused by the excessive gate height of one-foot and three-inches?

PREPARED BY: SEAN MULLIN, AICP  
Senior Planner

---

Reviewed by: Planning Manager and Community Development Director

---

REMARKS (continued):

STAFF RESPONSE: The Town's Senior Engineer reviewed the proposed fencing and found that the gate would need to be set back a minimum of 18 feet from the edge of the adjacent street (face of curb) because of the driveway's location near a busy street and the determination that added queue time of cars waiting to enter the property is considered a nuisance and unnecessary risk.

3. Why are certain portions of the fence deemed existing nonconforming, but not the gate?

STAFF RESPONSE: Pursuant to Section 29.40.0325 of the Town Code, all fences, gates, etc. existing on the effective date of the ordinance are exempt from the regulations and may be maintained and/or replaced in kind. The existing nonconforming portions of fencing and gates on the property existed prior to effective date of the current fence regulations in September 2019. The gate that is the subject of this appeal was constructed after the new fence regulations went into effect.

4. Is there data on the traffic load on Blackwell?

STAFF RESPONSE: Traffic volume data was not gathered for analysis of the fence height exception application. This level of review is not typical for this type of application.

EXHIBITS:

Previously received with the June 22, 2022, Staff Report:

1. Location Map
2. Required Finding
3. Recommended Conditions of Approval if Appeal is Granted
4. Administrative Warning/Citation VL-22-465, dated September 9, 2022
5. Exception Request – Letter of Justification
6. Fence Height Exception Denial Letter, dated March 6, 2023
7. Appeal of the Community Development Director Decision, received March 8, 2023
8. Annotated Site Plan Prepared by Staff
9. Public Comments received before 1100 a.m., Friday June 9, 2023
10. Project Plans

Received with this Desk Item Report:

11. Additional Justification for Vehicular Gate from the Appellant



**From:** Lawrence Cesnik <[REDACTED]>  
**Sent:** Tuesday, June 13, 2023 11:37 PM  
**To:** Sean Mullin <SMullin@losgatosca.gov>  
**Subject:** FME-23-002 - Email #9 - 380 Blackwell Dr - Physician Report

[EXTERNAL SENDER]

Dear Sean:

I am submitting a few additional emails as documentation for my case:

The first (attached) is our son [REDACTED] physician report RE safety concerns.

Sincerely

**Larry Cesnik**

[REDACTED]

[REDACTED]

Martin T Cesnik

[REDACTED]

6/13/2023

To Whom It May Concern:

I am writing on behalf of my patient, [REDACTED] who is presently in my care.

[REDACTED] has [REDACTED] He can [REDACTED] support his family's request to keep an electronic gate in their driveway to ensure my patient's safety.

If you need additional information, please call my office at [REDACTED] to speak with my nurse

Sincerely,

*[Handwritten signature]*

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**From:** Lawrence Cesnik <[REDACTED]>

**Sent:** Tuesday, June 13, 2023 11:39 PM

**To:** Sean Mullin <SMullin@losgatosca.gov>

**Subject:** FME-23-002 Email #10: [REDACTED] Individualized Program Plan including references to safety concerns

[EXTERNAL SENDER]

Dear Sean:

Please find attached our son [REDACTED] Individualized Program Plan (from the San Andreas Regional Center) including several references to safety concerns.

Sincerely,

**Larry Cesnik**

[REDACTED]

I

Date of IPP: 2/20/2020

Next IPP: 2/26/2021

Consumer: [REDACTED]

Birth Date: [REDACTED] AGE: [REDACTED]

Medicaid Waiver: Y

SC: [REDACTED]

Approved: 0/00/0000

DM: [REDACTED]

Approved: 0/00/0000

Address Applies To: Client;Father;Mother;Emergency Contact;Client  
Mailing;Mailing List

[REDACTED], [REDACTED]

Family email: [REDACTED]

### Part I - Introductory Statement

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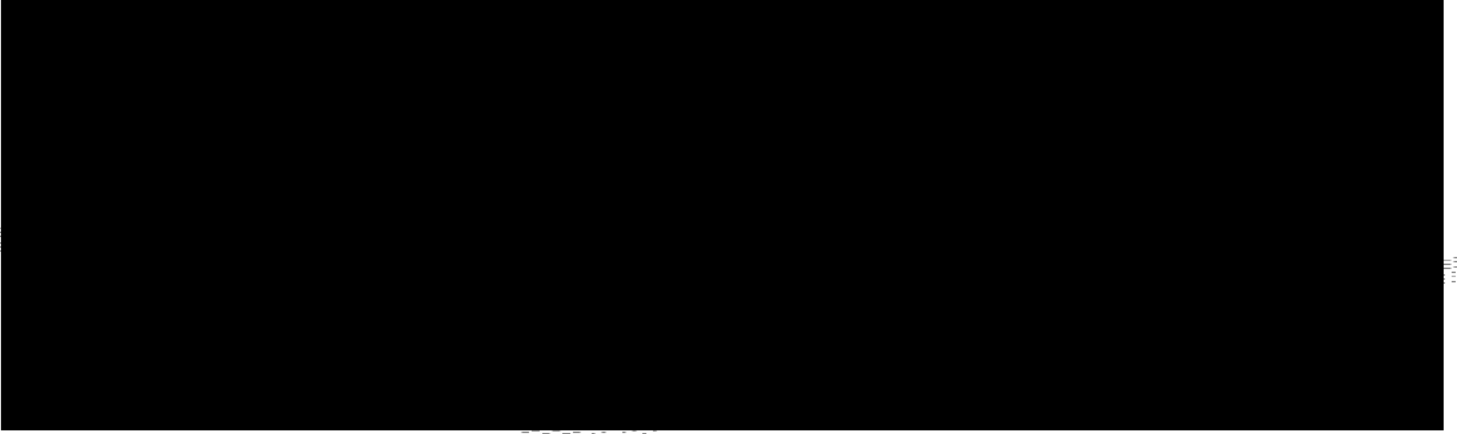
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**INDIVIDUAL PROGRAM PLAN - Continued...**



**From:** Lawrence Cesnik <[REDACTED]>

**Sent:** Tuesday, June 13, 2023 11:40 PM

**To:** Sean Mullin <SMullin@losgatosca.gov>

**Subject:** FME-23-002 - EMail #11 - Photos of [REDACTED] (380 Blackwell Dr) vis-a-vis sidewalk and street

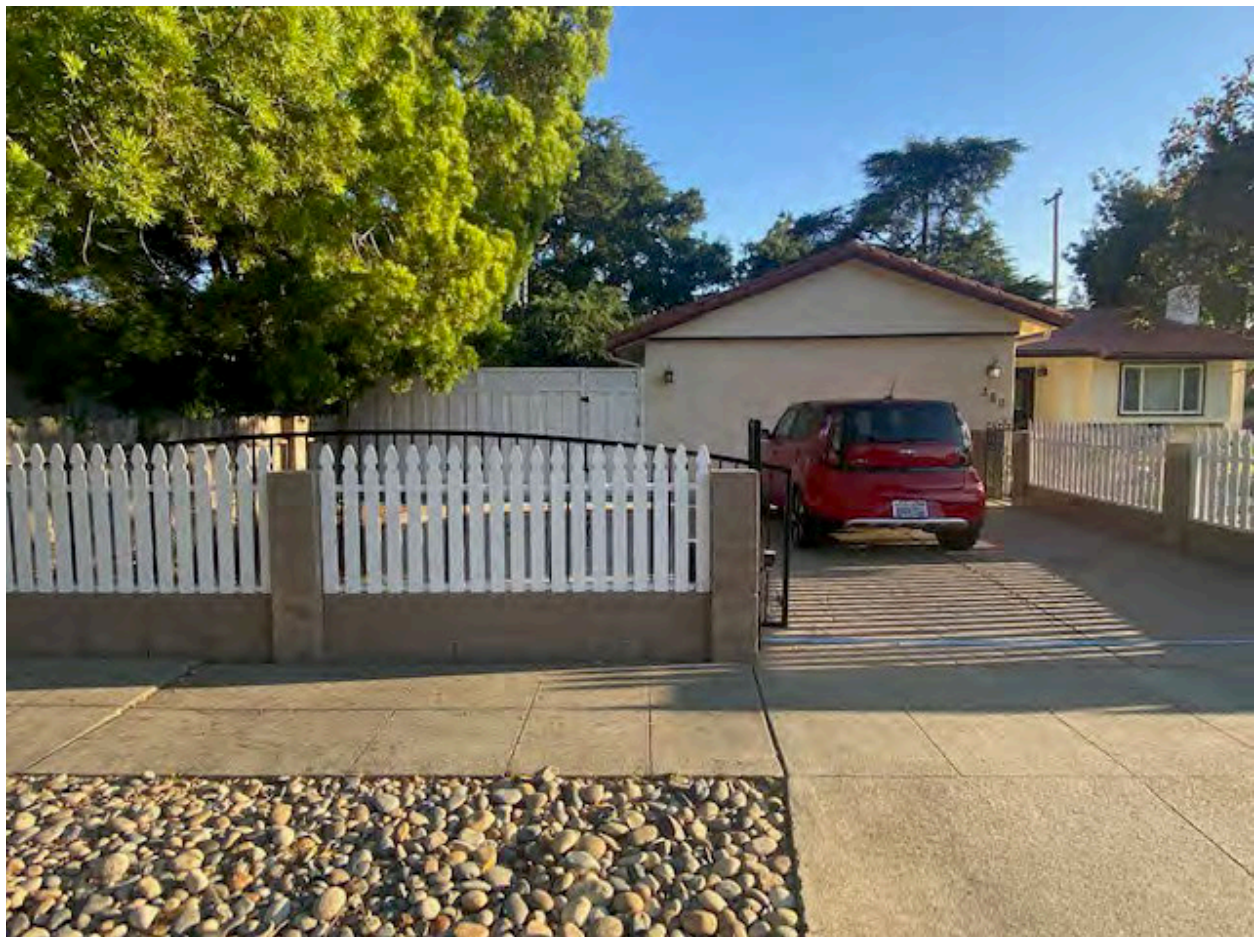
[EXTERNAL SENDER]

Dear Sean,

Please find attached below two photos to help illustrate the safety concerns of our son's ADU placement near the driveway, sidewalk and street - which motivated the need for an electronic gate as a barrier.

Sincerely,

Larry Cesnik





Larry Cesnik