



**TOWN OF LOS GATOS
PLANNING COMMISSION AGENDA
FEBRUARY 23, 2022
110 EAST MAIN STREET
LOS GATOS, CA**

*Melanie Hanssen, Chair
Jeffrey Barnett, Vice Chair
Kylie Clark, Commissioner
Kathryn Janoff, Commissioner
Steven Raspe, Commissioner
Reza Tavana, 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 2nd and 4th Wednesdays at 7:00 p.m.
Live and Archived Planning Commission meetings can be viewed by going to:
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]

IMPORTANT NOTICE REGARDING PLANNING COMMISSION MEETING

This meeting is being conducted utilizing teleconferencing and electronic means consistent with Government Code Section 54953, as Amended by Assembly Bill 361, in response to the state of emergency relating to COVID-19 and enabling teleconferencing accommodations by suspending or waiving specified provisions in the Ralph M. Brown Act (Government Code § 54950 et seq.). Consistent with AB 361 and Town of Los Gatos Resolution 2021-044 this meeting will not be physically open to the public and the Council and/or Commissioners will be teleconferencing from remote locations. Members of the public can only participate in the meeting by joining the Zoom webinar (log in information provided below). The live stream of the meeting may be viewed on television and/or online at:

<https://meetings.municode.com/PublishPage/index?cid=LOSGATOS&ppid=4bc370fb-3064-458e-a11a-78e0c0e5d161&p=0>. **In accordance with Executive Order N-29-20, the public may only view the meeting on television and/or online and not in the Council Chambers.**

PARTICIPATION

If you are not interested in providing oral comments real-time during the meeting, you can view the live stream of the meeting on television (Comcast Channel 15) and/or online at <https://www.youtube.com/channel/UCFh35XRBWer1DPx-F7vvhcg>.

If you are interested in providing oral comments in real-time during the meeting, you must join the Zoom webinar at:

<https://losgatosca.gov.zoom.us/j/82467567047?pwd=b2l4Nkc0amttN05MeDIRZWNodWxYQT09>.
Passcode: 977816.

Please be sure you have the most up-to-date version of the Zoom application should you choose to provide public comment during the meeting. Note that participants cannot turn their cameras on during the entire duration of the meeting.

During the meeting:

- When the Chair 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. If you are participating by calling in, press #2 on your telephone keypad to raise your hand.
- When called to speak, 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 are unable to participate in real-time, you may send an email to PlanningComment@losgatosca.gov with the subject line “Public Comment Item #” (insert the item number relevant to your comment) or “Verbal Communications – Non Agenda Item.” Comments will be reviewed and distributed before the meeting if received by 11:00 a.m. on the day of the meeting. All comments received will become part of the record. The Chair has the option to modify this action on items based on comments received.

REMOTE LOCATION PARTICIPANTS

The following Planning Commissioners are listed to permit them to appear electronically or telephonically at the Planning Commission meeting: CHAIR MELANIE HANSSEN, VICE CHAIR JEFFERY BARNETT, COMMISSIONER KYLIE CLARK, COMMISSIONER KATHRYN JANOFF, COMMISSIONER STEVEN RASPE, COMMISSIONER REZA TAVANA, AND COMMISSIONER EMILY THOMAS. All votes during the teleconferencing session will be conducted by roll call vote.

**TOWN OF LOS GATOS
PLANNING COMMISSION AGENDA
FEBRUARY 23, 2022
7:00 PM**

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.

MEETING CALL TO ORDER

ROLL CALL

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 February 9, 2022 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 a Six-Foot Fence Located Within the Required Front Yard Setback on Property Zoned R-1:8. Located at **16509 Bonnie Lane**. APN 532-42-013. Property Owner/Applicant/Appellant: Pamela Kee. Project Planner: Ryan Safty.

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: 02/23/2022

ITEM NO: 1

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

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

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

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

ROLL CALL

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

VERBAL COMMUNICATIONS

None.

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

1. Approval of Minutes – January 26, 2022

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

VOTE: Motion passed unanimously.

PUBLIC HEARINGS

2. 118 Olive Street

Architecture and Site Application S-21-013

APN 410-15-022

Applicant: Jay Plett, Architect

Property Owner: Thomas and Meredith Reichert

Project Planner: Sean Mullin

Requesting approval for demolition of an existing single-family residence and construction of a new single-family residence to exceed floor area ratio (FAR) standards with reduced front and side yard setbacks on nonconforming property zoned R-1D.
Continued from January 12, 2022 meeting.

Jennifer Armer, Planning Manager, presented the staff report.

Opened Public Comment.

Jay Plett, Applicant/Architect

- Per instructions from the Planning Commission, we have submitted a 3-D diagram of the structure and a Desk Item showing that the façade of the house is not flat. The 3-D depiction shows that the balcony over the garage was eliminated and instead shows the current design of a sloping shed roof over the garage. We conducted further outreach and allowed neighbors to walk around the subject site, view the story poles close up, and speak with the property owners.

Thomas Reichert, Owner

- The residents at 108 Olive Street are the only neighbors who did not sign the current letter or show up at the open houses. Everyone who signed the letter participated in the first and second open houses.

Shelly Baker, Neighbor

- We live directly next door on the west side of the proposed home and are the most affected. The mountain view from our living room, kitchen, dining room, and master bedroom would be completely blocked. We would lose natural lighting for all these rooms and our backyard as confirmed in the provided shadow study. These areas would also lack privacy. The proposed exception for reducing the side setback from 5 feet to 3 feet is preposterous, especially when considering the stitch piercing process that would be that much closer. The architectural rendering of the rear deck elevation does not depict the height. Approval of this project would set a precedent that every cottage sale will be viewed as a tear down to make way for more overbuilt homes.

Bonnie Hurwitz, Neighbor

- I agree with a great deal of Ms. Baker's comments. The owner of 108 Olive is unable to attend these meetings, but he signed both letters. I attended the outreach meeting, but was not invited to walk the property. The rendering looks like a tear down, not an addition.

When I asked questions regarding the garage and the property the feeling I got from the applicants was they know what they want and no one told them they couldn't do it. I disagree with a Commissioner's comment from the prior meeting that this neighborhood is in transition. Many of us have owned our properties for a long time and intend to stay.

Keith White, Neighbor

- When we bought our home, Olive Street was mostly made up of smaller homes, some remodels. We even asked the Town what we could expect for changes to the neighborhood and were assured the Town is a stickler for the rules, and yet here we are 20 years later and it's the house right next door that is changing, which we expected, but we didn't expect it to not follow all the rules. The proposed reduction to the front and side setbacks concern us the most, as they have the greatest impact on our property, but also the FAR being exceeded is a concern, because the Town expected smaller homes to remain the norm. Why are the rules not being followed?

Darren, Neighbor

- Both outreach meetings were held after dark, we were not invited to walk the property, there were no suggestions for compromise, and we were not privy to any additional information as we assumed was part of the Planning Commission's direction, and no plans or renderings were offered. Olive Street is a very narrow street with abysmal parking and efforts should be made to lessen the impact by enforcing a full-length driveway not in the public right-of-way and installing the car lift in the plans. Slight modifications to the plans would bring the home back into line with the rules and lessen the neighbors' concerns.

Thomas Reichert, Owner

- The open houses were not the only two opportunities neighbors had to visit our home. We gave everyone our contact information. If the neighbors felt the information they needed was not provided, they did not reach out to ask for it. No one asked to walk to the back yard, but some walked to the side yard. No one asked to see the plans in the hour we spoke at the second meeting, although we had them. We are not asking for variances, we're asking for two exceptions to the code that are consistent with the neighborhood. 120 Olive is potentially the most impacted, but it has all the same exceptions we are requesting. Their home has a 3-foot setback, is two-story, has a front yard setback of less than 15 feet, and it doesn't have a 20-foot driveway. We are literally proposing the same house as theirs, except ours would have a compliant driveway.

Jay Plett, Applicant/Architect

- Staff found this project worthy of approval. We are consistent with the patterns of the neighborhood and even more compliant than most of the houses in the neighborhood with respect to setbacks. We are not the largest house and do not have the largest floor area.

Closed Public Comment.

Commissioners discussed the matter.

MOTION: **Motion by Commissioner Barnett** to approve an Architecture and Site Application for 118 Olive Street. **Seconded by Commissioner Raspe.**

VOTE: **Motion passed unanimously.**

3. 15605 El Gato Lane

Architecture and Site Application S-21-020

APN 523-22-010

Applicant: Archana Jain

Property Owner: Natasha Malisic

Project Planner: Ryan Safty

Requesting approval for demolition of an existing single-family residence and construction of a new single-family residence with an exemption from the parking requirements, an exception for maximum lot coverage, and site work requiring a Grading Permit on nonconforming property pre-zoned R-1:8.

Ryan Safty, Associate Planner, presented the staff report.

Opened Public Comment.

Archana Jain, Applicant/Architect

- We would like to demolish the existing house and construct a new single-story residence with four bedrooms and four bathrooms. As the lot is very narrow, we are requesting an exception for one of the parking spaces. For the lot coverage, we have proposed covered entries along the front and back elevation and a covered side porch, which requires the extra 51 square feet. The plans were developed based on the requirements of the County and met all the County setbacks, etc., so the only exceptions came out to be the parking and the lot coverage. In terms of architecture, we have worked with staff and the Consulting Architect to ensure the style is consistent with the neighborhood, especially with the roofing material. The Consultant also requested that we break up the side elevations. The main reason we have kept the roofline very consistent and straight is because of the narrow lot; we don't want to indent more and lose more area in the house. We wish to make the house economical for construction to have trusses and build out straight at the back. We are not requesting any setback exceptions. The property is one of the most well-kept properties in the neighborhood. The owner wants to keep the existing landscaping in the front. We are willing to work with the Consultant, but also do not want to make many changes as the side and rear elevations are not visible from the street.

Natasha Malisic, Owner

- I understand everything the Town Architect sent to me. I love the Eichler style, but this neighborhood is changing. All the houses in the unincorporated area look nothing like this neighborhood. This is an eclectic neighborhood, and my proposed house style is simple, clean, and timeless, so I don't understand the push for the flat roof, which could be

problematic with respect to leaking. There are a few homes on my street that look like new renovations that are very similar to my house's style, so it's not that it wouldn't fit into the neighborhood. In my case, the Town and the County properties both have to be taken into consideration.

Closed Public Comment.

Commissioners discussed the matter.

MOTION: **Motion by Commissioner Janoff** to approve an Architecture and Site Application for 15605 El Gato Lane. **Seconded by Commissioner Clark.**

VOTE: **Motion passed unanimously.**

OTHER BUSINESS

None.

REPORT FROM THE DIRECTOR OF COMMUNITY DEVELOPMENT

Joel Paulson, Director of Community Development

- Town Council extended the Urgency Ordinance for SB 9 with modifications at their February 1, 2022 meeting.
- The Housing Element Advisory Board will be meeting on February 17, 2022 to discuss the site inventory analysis process.
- A community meeting regarding objective standards will be held on February 22, 2022 for the public to provide input on a variety of topics as the Town prepares a draft document with objective standards for mixed-use and multi-family projects, which will then go before the Planning Commission and Town Council.

SUBCOMMITTEE REPORTS/COMMISSION MATTERS

None.

ADJOURNMENT

The meeting adjourned at 8:59 p.m.

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

/s/ Vicki Blandin

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**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 2/23/2022

ITEM NO: 2

DATE: February 18, 2022
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 a Six-Foot Fence Located Within the Required Front Yard Setback on Property Zoned R-1:8. Located at 16509 Bonnie Lane. APN 532-42-013. Property Owner/Applicant/Appellant: Pamela Kee. Project Planner: Ryan Safty.

RECOMMENDATION:

Deny the appeal of a Community Development Director decision to deny a fence height exception on property zoned R-1:8, located at 16509 Bonnie Lane.

PROJECT DATA:

General Plan Designation: Low Density Residential
Zoning Designation: R-1:8
Applicable Plans & Standards: General Plan
Parcel Size: 8,249 square feet
Surrounding Area:

	Existing Land Use	General Plan	Zoning
North	Residential	Low Density Residential	R-1:8
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: RYAN SAFTY
Associate Planner

Reviewed by: Planning Manager and Community Development Director

CEQA:

The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15303: New Construction or Conversion of Small Structures. The project proposes a new approximately six-foot tall fence.

FINDINGS:

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

ACTION:

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

BACKGROUND:

The subject property is located on the west side of Bonnie Lane, just north of the intersection with Shady View Lane (Exhibit 1).

On November 22, 2021, the Town received a Fence Height Exception application to install an approximately six-foot tall redwood fence within the required front yard setback at 16509 Bonnie Lane (Exhibit 6). Town Code requires that fences and gates within the required front yard setback be limited to three feet in height.

On January 7, 2022, the Town denied the exception request since none of the required conditions listed in Town Code 29.40.0320 (*Exceptions*) were found to exist on the subject property.

On January 18, 2022, the decision of the Community Development Director to deny the exception request was appealed to the Planning Commission by the property owner.

PROJECT DESCRIPTION:

A. Location and Surrounding Neighborhood

The subject property is located on the west side of Bonnie Lane, just north of the intersection with Shady View Lane (Exhibit 1). The surrounding properties are low-density residential.

PROJECT DESCRIPTION (continued):

B. Project Summary and Zoning Compliance

The property owner is appealing the Community Development Director decision to deny a Fence Height Exception application to install an approximately six-foot tall redwood fence within the required front yard setback.

DISCUSSION:

A. Fence Height Exception

The property owner is requesting approval to construct an approximately six-foot tall pressure treated redwood fence within the required front yard setback. The fence would range in height from 60 to 67.5 inches and would be located roughly two to three feet from the front property line. The property owner has also proposed a pedestrian arbor that would comply with the maximum allowed height of eight feet for pedestrian gateways pursuant to Town Code Section 29.40.0315(a)(4).

Per Town Code Section 29.40.0315, fences and gates are limited to six feet in height with one foot of lattice on top (seven feet total), but are limited to, "three feet in height when located within a required front or side yard abutting a street, driveway view area, traffic view area, or corner sight triangle unless an exception is granted by the Town Engineer and Community Development Director." The proposed fence is limited to three feet by Code as it would be within the front yard setback requirement, the traffic view area, and the driveway view area (Exhibit 7).

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:

- (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:*

DISCUSSION (continued):

- (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 cited condition (E) from Town Code Section 29.40.0320 for the exception request (Exhibit 4). Specifically, the property slopes down roughly six feet from the front property line to the front façade of the existing residence. The windows along the front façade are at roughly the same height as the existing grade of Bonnie Lane. The owner states that vehicular traffic along Bonnie Lane at night results in headlights shining directly into the residence, and that a code-compliant three-foot tall fence would not provide the privacy buffer they need. Additionally, the property previously had a roughly six- to seven-foot-tall hedge in the same location as the proposed fence. The hedge was removed to accommodate the proposed fence, which the owner contests would be, “less intrusive to the street than replacing the former hedge in kind” (Exhibit 9).

The property owner included a Letter of Justification (Exhibit 5), which analyzed the surrounding neighborhood for compliance with the Town’s current fence requirements. The owner surveyed the 18 properties on either side of Bonnie Lane, and found that eight of the properties currently have solid fences or hedges within the front yard that exceed the current three-foot height limit. Staff reviewed these properties and found that all eight have existed since at least 2013, which was before the Town updated the fence regulations in 2019.

The Community Development Department could not support the Fence Height Exception application and denied the application on January 7, 2022 (Exhibit 8). Although a “special circumstance exists,” as the property slopes down from Bonnie Lane, staff could not find that, “strict enforcement of these regulations would result in undue hardship” (Town Code Section 29.40.0320). Town Code allows a three-foot tall fence within the front 25 feet of the property. If a privacy fence is needed to block vehicular headlights, a six-foot fence with one-foot of lattice (seven total) could be placed outside of the front setback, continuing along the front face of the garage. Additionally, blinds or other window treatments could be added to screen the view of headlights.

DISCUSSION (continued):

Lastly, although roughly half of the neighborhood does not comply with the Town's current fence regulations, all of these fences and hedges existed prior to adoption of the new fence regulations.

Per Town Code Section 29.40.0315, both the Community Development Director and the Town Engineer need to approve of exceptions to the three-foot height maximum when located within the required front yard, driveway view area, traffic view area, or corner sight triangle. As stated above, the Community Development Director could not support the requested height exception. In anticipation of this appeal hearing, staff reached out to the Town Engineer to see if they could support the height exception as the project would be within the driveway view area and the traffic view area (Exhibit 7). The Town Engineer informed staff that they could consider an exception to the traffic view area, but would not allow an exception to the driveway view area. If the Planning Commission were to approve the appeal and the Fence Height Exception request, the applicant would need to revise the plans to meet the requirements of the driveway view area and would need to work with the Town Engineer for an exception to the traffic view area (Condition 3, Exhibit 3).

B. Appeal Analysis

The Decision of the Community Development Director to deny the Fence Height Exception application was appealed on January 7, 2022 (Exhibit 9). The property owner believes that the exception request is compatible with the neighborhood and if they complied with Town Code, they would be subject to an undue hardship due to the slope of their lot.

C. Environmental Review

The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15303: 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. Two neighbors have written letters of support, which are included as Exhibit 10.

CONCLUSION:

A. Summary

The property owner is requesting that the Planning Commission reconsider the Community Development Director's decision to deny the Fence Height Exception application in order to build a new six-foot fence within the required front yard setback.

B. Recommendation

Staff recommends that the Planning Commission deny the appeal and uphold the decision of the Community Development Director to deny the Fence Height Exception application.

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 application making the findings in Exhibit 2 and with the draft conditions provided in Exhibit 3; or
3. Grant the appeal with additional and/or modified conditions.

EXHIBITS:

1. Location Map
2. Required Findings and Considerations
3. Recommended Conditions of Approval if Appeal is Approved
4. Project Description, received November 22, 2021
5. Letter of Justification, received December 21, 2021
6. Project Plans, received December 29, 2021
7. Parks and Public Works View Area Diagrams
8. Fence Height Exception Denial Letter, dated January 7, 2022
9. Appeal of Community Development Director Decision, received January 18, 2022
10. Neighborhood Letters of Support, received February 12, 2022

16509 Bonnie Lane



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PLANNING COMMISSION –February 23, 2022
REQUIRED FINDINGS FOR:

16509 Bonnie Lane
Fence Height Exception FHE-21-013

Consider an Appeal of a Community Development Director Decision to Deny a Fence Height Exception Request for Construction of a Six-Foot Fence Located Within the Required Front Yard Setback on Property Zoned R-1:8. Located at 16509 Bonnie Lane. APN 532-42-013.

Property Owner/Applicant/Appellant: Pamela Kee.

Project Planner: Ryan Safty.

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: New Construction or Conversion of Small Structures.

EXHIBIT 2

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PLANNING COMMISSION – February 23, 2022
CONDITIONS OF APPROVAL

16509 Bonnie Lane
Fence Height Exception FHE-21-013

Consider an Appeal of a Community Development Director Decision to Deny a Fence Height Exception Request for Construction of a Six-Foot Fence Located Within the Required Front Yard Setback on Property Zoned R-1:8. Located at 16509 Bonnie Lane. APN 532-42-013.

Property Owner/Applicant/Appellant: Pamela Kee.

Project Planner: Ryan Safty.

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. VIEW AREAS: Exceptions to the driveway view area and traffic view area must be approved by the Town Engineer (Parks and Public Works) prior to construction of the fence and pedestrian entryway arbor. If exceptions are not granted, the plans must be revised to comply with the Town's requirements regarding driveway view area and traffic view area.
4. PEDESTRIAN ENTRYWAY ARBOR: The proposed pedestrian entryway arbor requires a building permit. At time of building permit submittal, the applicant must prove compliance with Town Code Section 29.40.0315(b)(4) regarding open views, maximum width, and maximum depth.
5. EXTERIOR LIGHTING: All exterior lighting must comply with the Town's requirements and must be downward directed and shielded from neighbor's view.
6. TREE PROTECTION: At the discretion of the Town Arborist, tree protection fencing shall be installed prior to building permit issuance.
7. TOWN INDEMNITY: Applicants are notified that Town Code Section 1.10.115 requires that any applicant who receives a permit or entitlement from the Town shall defend, indemnify, and hold harmless the Town and its officials in any action brought by a third party to overturn, set aside, or void the permit or entitlement. This requirement is a condition of approval of all such permits and entitlements whether or not expressly set forth in the approval and may be secured to the satisfaction of the Town Attorney.

EXHIBIT 3

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Privacy fence with panels varying in heights between 54" and 66" replacing 72" tall bush. In no case will the latticework exceed 72". The fence will have 9 panels in total, with the tallest panel being 66" and the shortest panel being 54", as well as one entryway not exceeding 96" in height from the grade line. The fence will be set back 1-2' from the edge of the property rather than encroach on the sidewalk. There will be horizontal slats varying in width as the lattice work. There will be solar lights at the top of the fence posts providing light to the sidewalk. We will also be affixing street numbers to the fence.

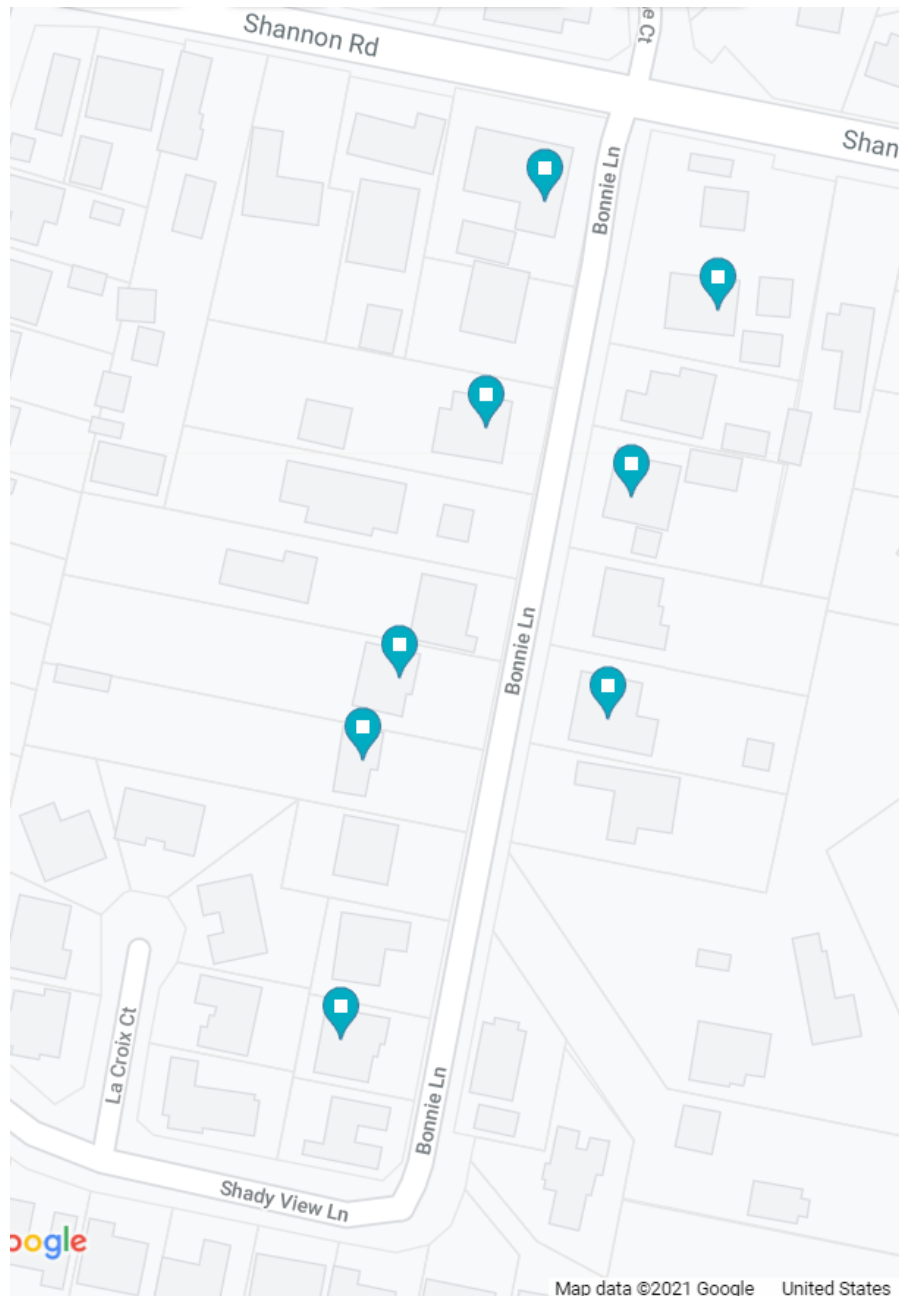
A privacy fence of this height is necessary because the grade of the property has our windows level with the street. The privacy bush currently provides a barrier to car headlights disrupting our lives at night, however, we would like to replace it with a lower maintenance alternative.

The fence will be made of solid redwood. The fence posts will be 6"x6" redwood posts and the lattice work will comprise of redwood strips varying between 2.25" and 5" in width. The lights on top of each fence post will be made of aluminum and are powered by solar, so no electrical work will need to be done. In order to install the fence, we will need to remove the bushes, use an auger to dig the postholes, set the posts into the postholes using concrete, use a saw to cut each post down to height, and then use a nail gun and screwdriver to tack the latticework into place.

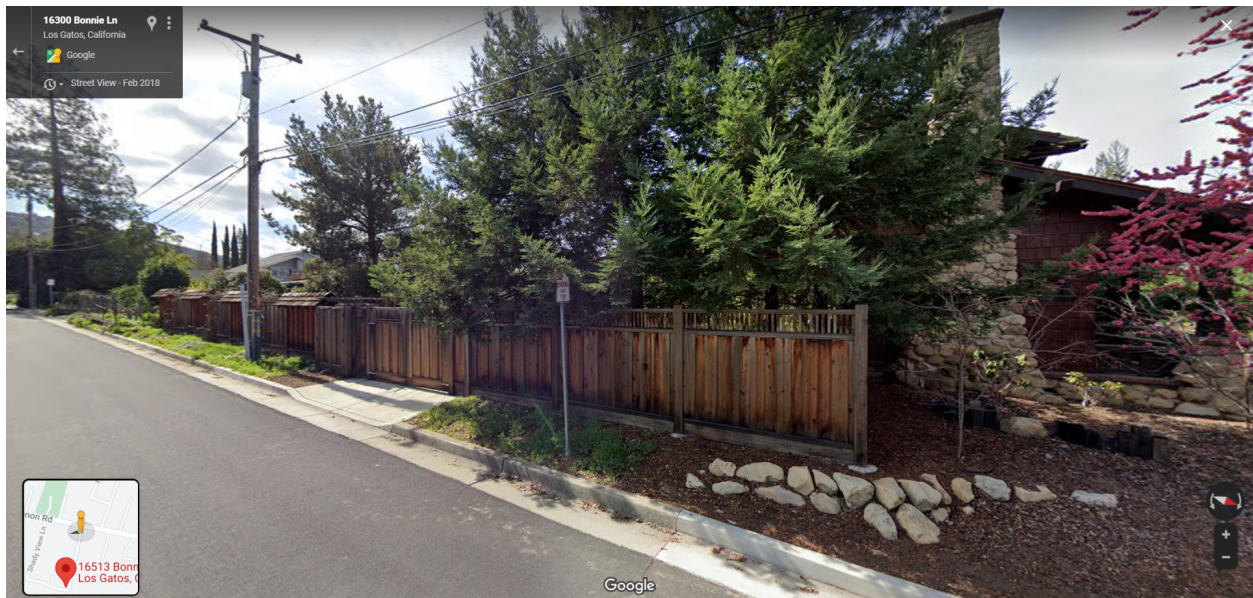
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There are 18 houses on Bonnie Lane with significant road frontage. 8 of those 18 houses (44.4%) have solid fences or hedges that well exceed 3'. This includes an image of our property with our previous hedge that we would like to replace with a fence. Below are the address of each of those houses and images (from google maps, however the houses still look similar) of what the fences/hedges look like.

Map of Houses with Solid Fences/Hedges on Bonnie Lane



16250 Shannon Rd (side yard)



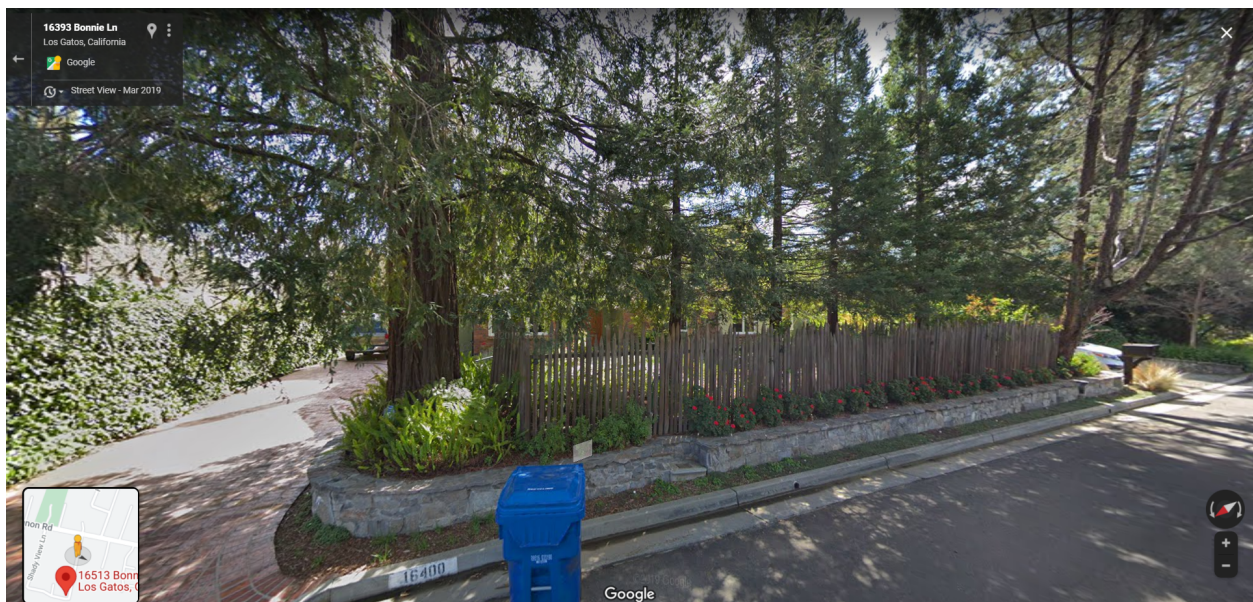
16222 Shannon Rd (side yard, hedge)



16393 Bonnie Lane



16400 Bonnie Lane



16439 Bonnie Lane



16436 Bonnie Lane



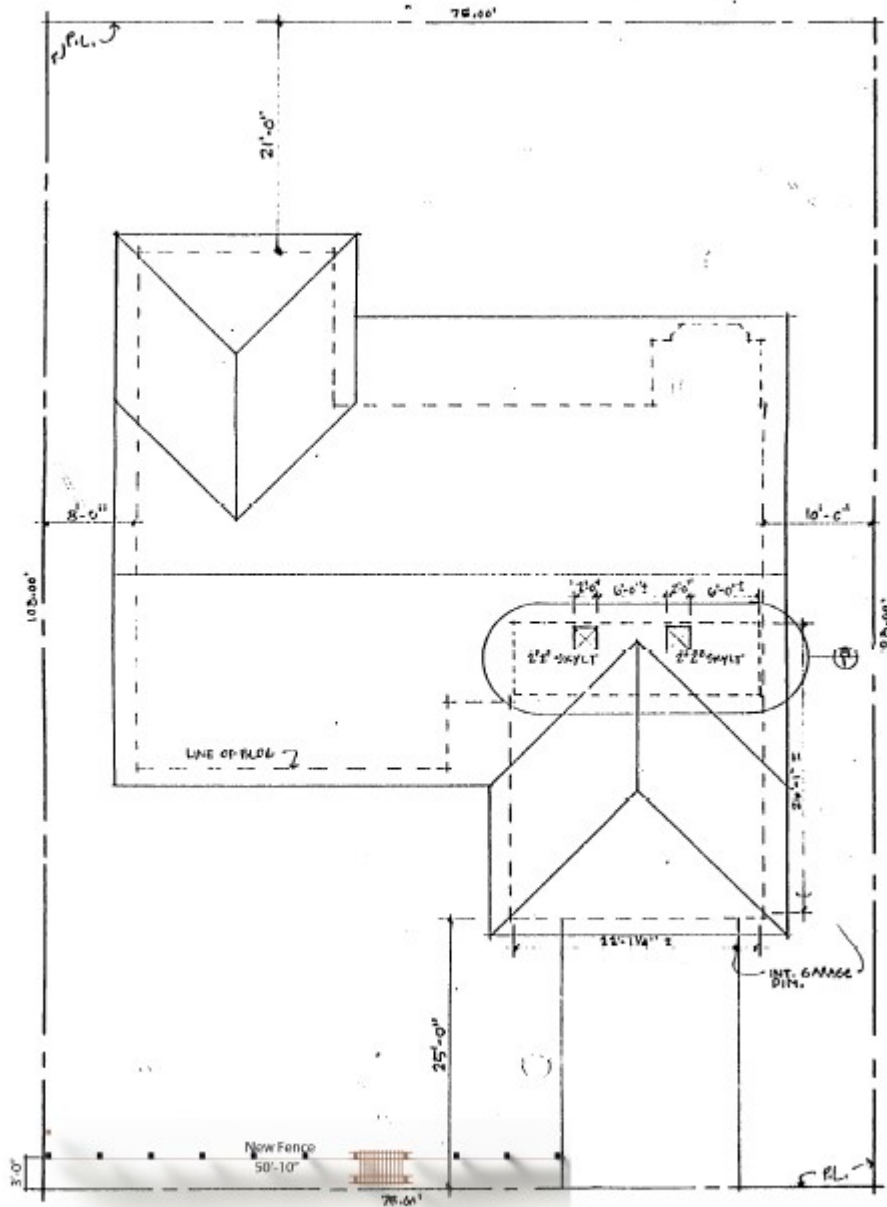
16451 Bonnie Lane (hedge)



16509 Bonnie Lane (we previously had a hedge, we are trying to make it a fence)



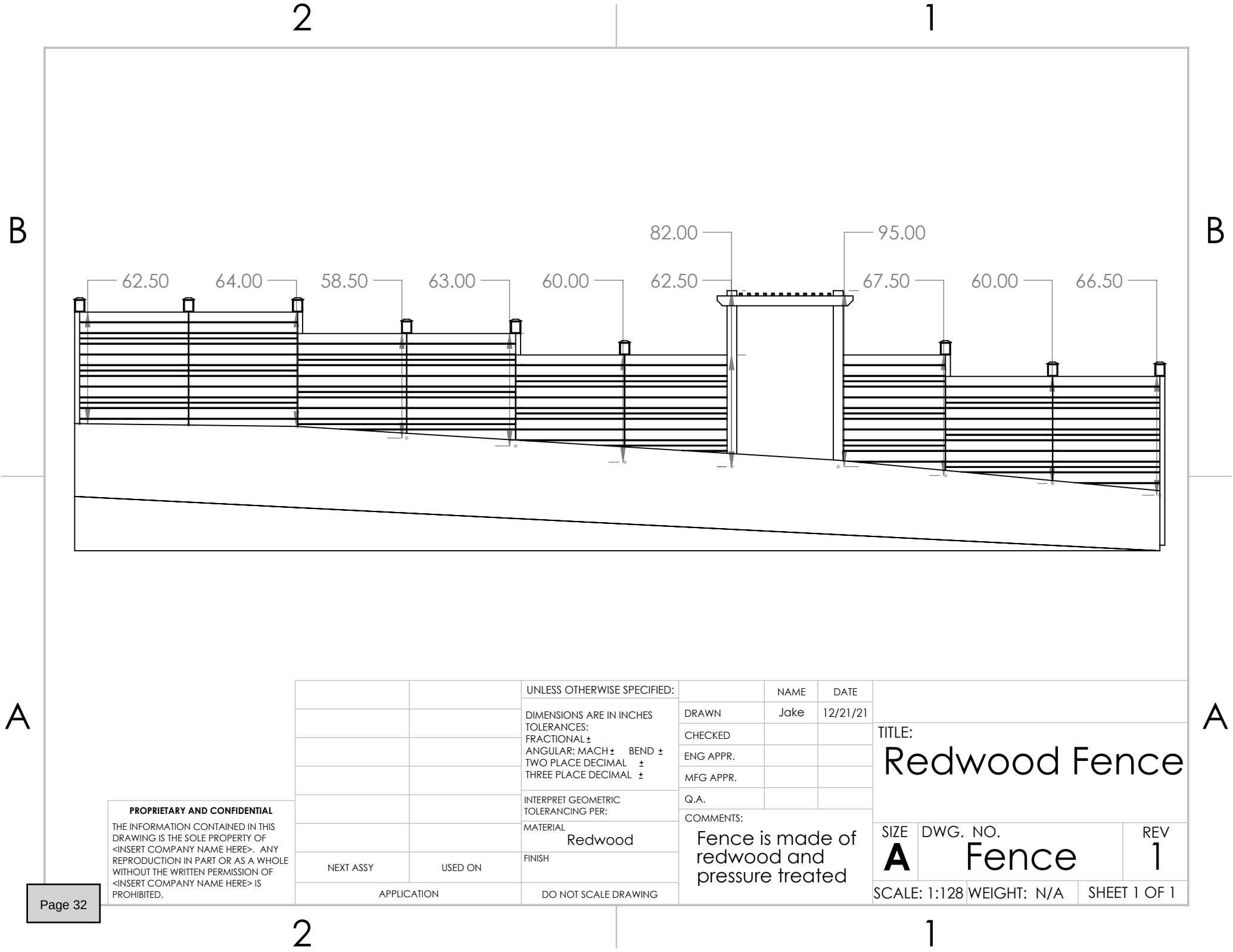
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SITE PLAN & ROOF PLAN
 1/8" = 1'-0"

DORRIS LANE





PROPRIETARY AND CONFIDENTIAL
THE INFORMATION CONTAINED IN THIS DRAWING IS THE SOLE PROPERTY OF <INSERT COMPANY NAME HERE>. ANY REPRODUCTION IN PART OR AS A WHOLE WITHOUT THE WRITTEN PERMISSION OF <INSERT COMPANY NAME HERE> IS PROHIBITED.

		UNLESS OTHERWISE SPECIFIED:
		DIMENSIONS ARE IN INCHES
		TOLERANCES:
		FRACTIONAL ±
		ANGULAR: MACH ± BEND ±
		TWO PLACE DECIMAL ±
		THREE PLACE DECIMAL ±
		INTERPRET GEOMETRIC TOLERANCING PER:
		MATERIAL
		Redwood
		FINISH
NEXT ASSY	USED ON	
APPLICATION		DO NOT SCALE DRAWING

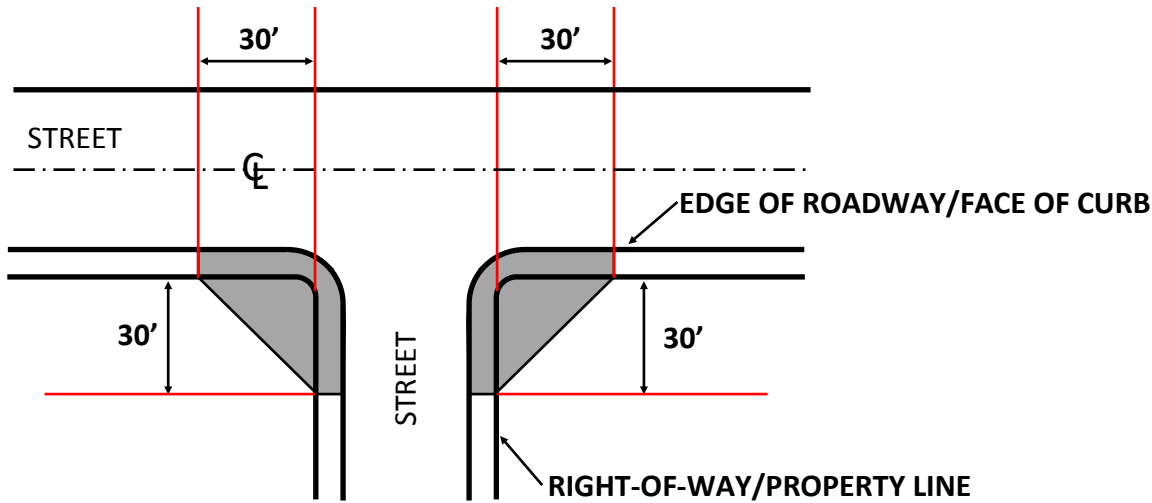
	NAME	DATE
DRAWN	Jake	12/21/21
CHECKED		
ENG APPR.		
MFG APPR.		
Q.A.		
COMMENTS:		
Fence is made of redwood and pressure treated		

TITLE:		
Redwood Fence		
SIZE	DWG. NO.	REV
A	Fence	1
SCALE: 1:128	WEIGHT: N/A	SHEET 1 OF 1



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CORNER SIGHT TRIANGLE

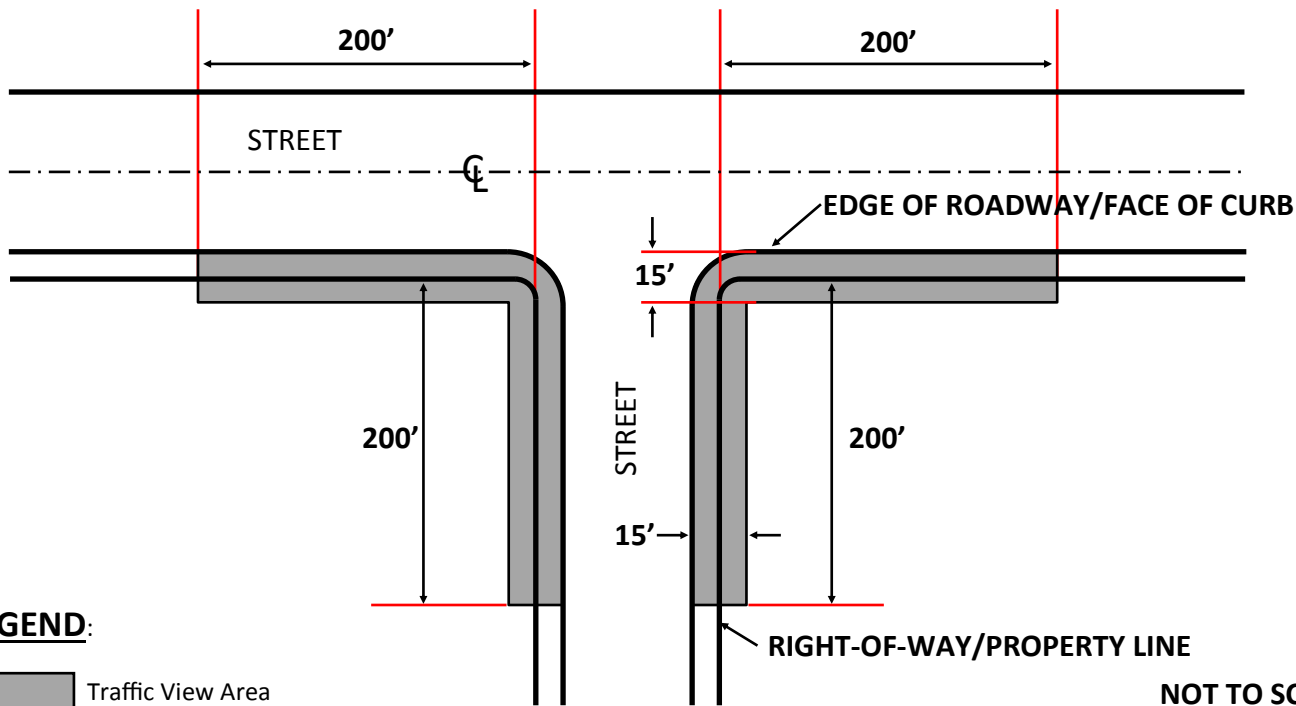


LEGEND:

 Corner Sight Triangle

NOT TO SCALE

TRAFFIC VIEW AREA

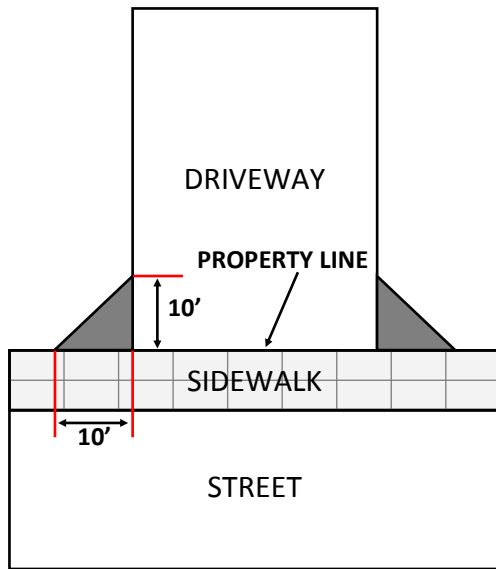


LEGEND:

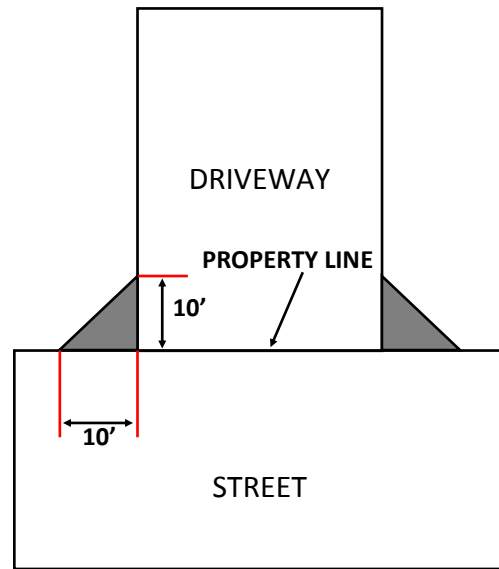
 Traffic View Area

NOT TO SCALE

DRIVEWAY VIEW AREA



Sidewalk Example



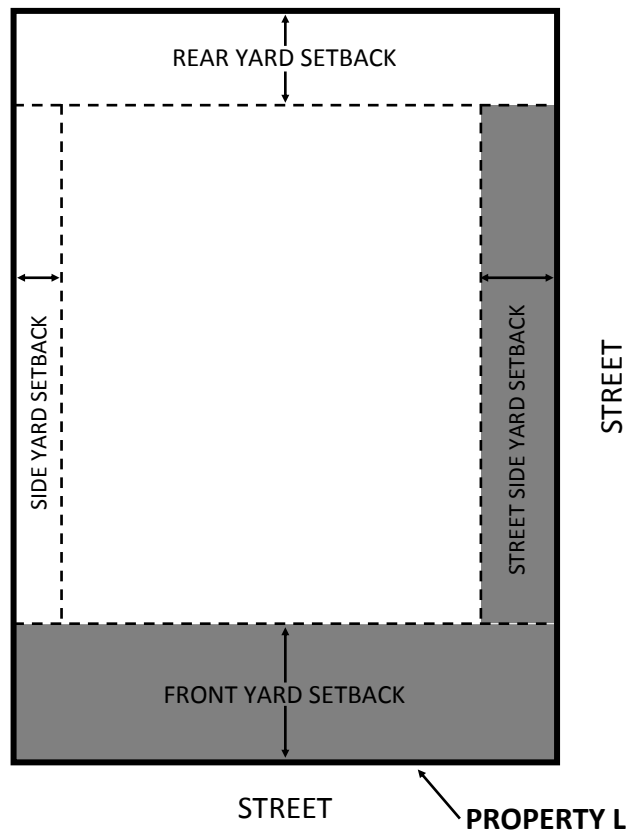
No Sidewalk Example

LEGEND:

 Driveway View Area

NOT TO SCALE

FRONT AND STREET SIDE YARD AREA



LEGEND:

 Front and Street Side Yard Area

STREET

PROPERTY LINE

NOT TO SCALE



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

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

January 7, 2022

Pamela Kee
16509 Bonnie Lane
Los Gatos, CA 95032

RE: 16509 Bonnie Lane
Fence Height Exception (FHE-21-013)

Requesting approval for an exception to construct a five (5) foot tall fence within the required front yard setback on property zoned R-1:8. APN 532-42-013.
PROPERTY OWNER/APPLICANT: Pamela Kee

The Los Gatos Community Development Department has reviewed the referenced application for a fence height exception pursuant to Section 29.40.0320. On January 7, 2022, the Los Gatos Community Development Department has **denied** the request.

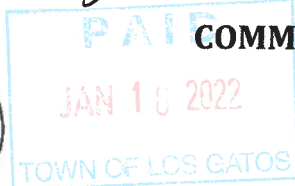
PLEASE NOTE: Pursuant to Section 29.20.255 of the Town Code, this decision may be appealed to the Planning Commission within 10 days of the denial date. Any interested person may appeal this decision to the Planning Commission. Appeals, with the completed Appeal Form and appeal fee payment, must be submitted within 10 days from the date of denial, or by 5:00 p.m., January 18, 2022.

If you have any questions concerning this decision, please contact Project Planner Ryan Safty at (408) 354-6802 or via email at RSafty@logatosca.gov.

Sincerely,

Ryan Safty
Associate Planner

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COMMUNITY DEVELOPMENT DEPARTMENT

110 E. Main Street
Los Gatos, CA 95030

RECEIVED

JAN 18 2022

TOWN OF LOS GATOS
PLANNING DIVISION

APPEAL OF THE DECISION OF DEVELOPMENT REVIEW COMMITTEE

CDD DECISION

PLEASE TYPE or PRINT NEATLY

I, the undersigned, do hereby appeal a decision of the DEVELOPMENT REVIEW COMMITTEE as follows:

DATE OF DECISION: 01/07/2022

PROJECT/APPLICATION: FHE-21-013

LOCATION: 16509 BONNIE LN, LOS GATOS CA 95032

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

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:

1. SPECIAL CIRCUMSTANCES - DUE TO THE GRADE OF THE PROPERTY AND THE SLOPE OF THE HILL, A SHORT FENCE WILL NOT PREVENT HEADLIGHTS FROM SHINING INTO OUR HOME AT NIGHT, THE SHORT FENCE WOULD ALSO ALLOW PEOPLE TO LOOK INTO OUR HOME
2. IS SHORTER AND LESS INTRUSIVE TO THE STREET THAN REPLACING THE FORMER IMPORTANT: HEDGE IN KIND (7+ ft tall, abutting the sidewalk)

1. Appeal must be filed not more than ten (10) days after the decision is rendered by the Development Review Committee. If the tenth (10th) day is a Saturday, Sunday, or Town holiday, then the appeal may be filed on the workday immediately following the tenth (10th) day, usually a Monday.
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 a new 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: PAMELA KEE

SIGNATURE: Pamela Lau Kee

DATE: 01/17/2022

ADDRESS: 16509 BONNIE LN, LOS GATOS, CA 95032

PHONE: (408) 358-6958

EMAIL: pkee@alum.mit.edu

OFFICE USE ONLY

DATE OF PLANNING COMMISSION HEARING: _____

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

DATE: _____
DATE: _____
DATE: _____

PLAPPEAL \$ 221.00 Residential
PLAPPEAL \$ 882.00 Commercial

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To our Bonnie Lane Neighbors:

We are the residents of 16509 Bonnie Lane and later this month, we will be approaching the planning commission to seek approval for a fence in our front yard. Below are the reasons why we would like a fence taller than 3ft in our front yard.

1. Our home is recessed roughly 4ft below street level into the hillside, and where a normal home doesn't need to worry about headlights shining in at night, our house is susceptible to light shining into our home. A 3ft fence is not tall enough to block this light, especially since our house is on a slope and many points on the fence end up being below 3ft.
2. Given that our house is on a slope, a fence with a maximum height of 3ft results in some fence sections being just over 2ft, resulting in a fence that would be more of a tripping hazard than a fence.
3. As seen in the Proposed vs. Town Code image, a 3ft fence would leave all of our windows fully exposed to any people or light that passes by.
4. The proposed fence is topped with solar lights on top of each post providing light to the otherwise unlit sidewalk at night. In front of the fence would be drought tolerant, low maintenance, California native plants to add some color that are surrounded by mulch.
5. This fence is replacing a large 8' tall 60 year old hedge (see image of old hedge) that was harder to maintain, encroached on the sidewalk, people would leave trash and doggie bags in the hedge, and created a home for rodents. It also presented a much greater fire hazard than the proposed shorter fence.
6. The old hedge is grandfathered in so according to town code, we are able to replace the hedge in kind. If we are unable to build the fence, we will search for a hedge to replace the old hedge in kind to maintain the privacy of our home.
7. Many neighbors on our street have fences or hedges exceeding that 3ft limit so our house would maintain the character of the neighborhood with the proposed fence.

Please email pkee@alum.mit.edu to say that you support our fence. Or sign the sample letter on the back of this page and return it to us at our home. If you could get back to us by February 18th with your support, that would be appreciated.

Thanks,
Pamela Kee (Property Owner)

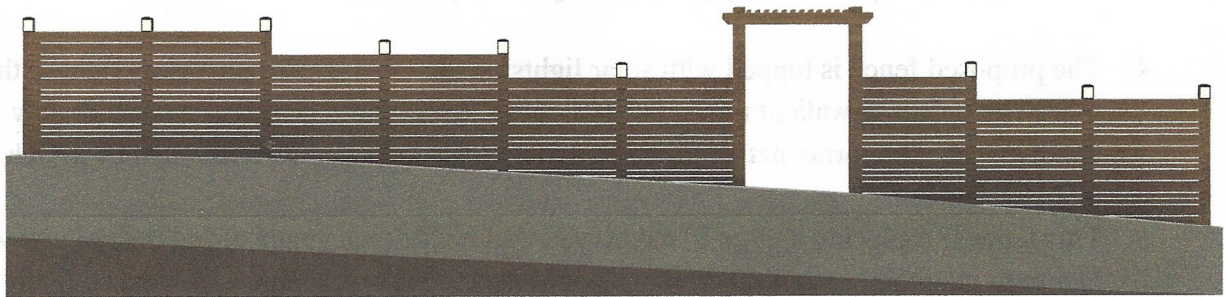
Old Hedge



Proposed vs. Town Code



Proposed Fence



We, Ayanna^{Iceland} and Carmen Lo
the residents and owners of 16471 Bonnie Lane
support the fence proposed by the owners of 16509 Bonnie Lane.

Signed,

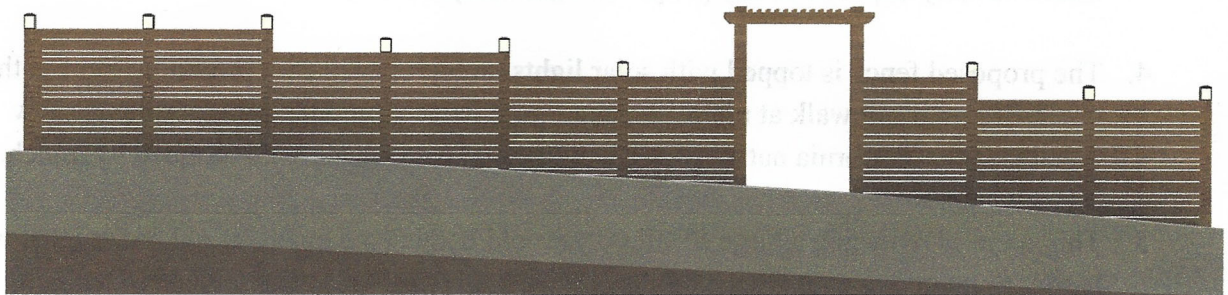
Old Hedge



Proposed vs. Town Code



Proposed Fence



We, Molly & Steve BAUNACH
the residents and owners of 16488 Bonnie Ln.
support the fence proposed by the owners of 16509 Bonnie Lane.

Signed,

SC Baunach

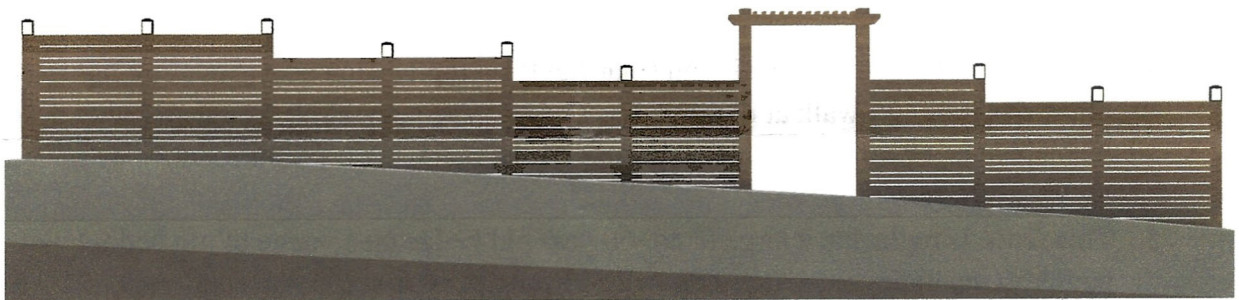
Old Hedge



Proposed vs. Town Code

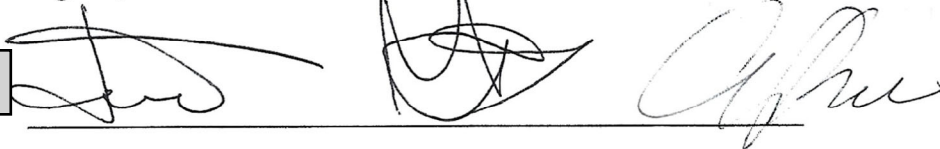


Proposed Fence



 We, Alexsei Potov, Matvei Potov ANASTASIA PULSEPP
 the residents and owners of 16503 BONNIE LN
 support the fence proposed by the owners of 16509 Bonnie Lane.

Signed,





**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 2/23/2022

ITEM NO: 2

DESK ITEM

DATE: February 23, 2022
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 a Six-Foot Fence Located Within the Required Front Yard Setback on Property Zoned R-1:8. Located at 16509 Bonnie Lane. APN 532-42-013. Property Owner/Applicant/Appellant: Pamela Kee. Project Planner: Ryan Safty.

REMARKS:

Exhibit 11 includes information from the applicant demonstrating privacy concerns. Exhibit 12 includes public comment received between 11:01 a.m., Tuesday, February 22, 2022, and 11:00 a.m., Wednesday, February 23, 2022.

EXHIBITS:

Previously received with the February 23, 2022 Staff Report:

1. Location Map
2. Required Findings and Considerations
3. Recommended Conditions of Approval if Appeal is Approved
4. Project Description, received November 22, 2021
5. Letter of Justification, received December 21, 2021
6. Project Plans, received December 29, 2021
7. Parks and Public Works View Area Diagrams
8. Fence Height Exception Denial Letter, dated January 7, 2022
9. Appeal of Community Development Director Decision, received January 18, 2022
10. Neighborhood Letters of Support, received February 12, 2022

PREPARED BY: Ryan Safty
Associate Planner

Reviewed by: Planning Manager and Community Development Director

PAGE 2 OF 2

SUBJECT: 16509 Bonnie Lane/FHE-21-013

DATE: February 23, 2022

EXHIBITS (continued):

Received with this Desk Item Report:

11. Information demonstrating privacy concerns
12. Public comment received between 11:01 a.m., Tuesday, February 22, 2022, and 11:00 a.m., Wednesday, February 23, 2022.

This document contains images that are a visual representation of the headlights that shine into our home and our justification for the height of the fence we have built.

This first image is an overhead image of our street, showing a private driveway that connects to three different residences where the headlights shine directly into our home as our neighbors leave their residences at night, as demonstrated by the red arrow.



Fig-1: Overhead View

The second image shows the elevation of the private driveway due to the nature of the hill we live on. As our neighbors descend their driveway there is continued elevation where their headlights are aimed directly into our home.



Fig-2: Image of Private Driveway

The height at which these headlights shine into our home is demonstrated in the third image by the red arrow. Based on the assumption that the average headlight is 24" off the ground, when our neighbors are descending their driveway, their lights are about 4.5' about the sidewalk on our side of the street and shine directly into our windows. This driveway is what dictated our need for a fence that exceeds 3' in height. We felt that a 5' fence would partially obscure the light while being shorter, more maintainable, more drought tolerant, and less of a fire hazard than the previous 6+' hedge.



Fig-3: Comparison of Private Driveway Relative to Our Residence

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From: [Planning Comment](#)
To: [Ryan Safty](#)
Subject: FW: 16509 Bonnie Ln
Date: Wednesday, February 23, 2022 11:04:12 AM

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

From: [REDACTED] >
Sent: Tuesday, February 22, 2022 4:36 PM
To: Planning Comment <PlanningComment@losgatosca.gov>
Subject: 16509 Bonnie Ln

EXTERNAL SENDER

I drive on Bonnie Lane and pass the property in question, and all the others on Bonnie Ln, several times a week. In my opinion the fence being proposed should definitely be approved. It is very esthetically pleasing and is consistent with all the other houses on the street.

There is no good reason to deny the homeowner their application.

Thank you

[REDACTED]

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