

CITY OF CUPERTINO  
10300 Torre Avenue  
Cupertino, California 95014

DRAFT RESOLUTION

OF THE DESIGN REVIEW COMMITTEE OF THE CITY OF CUPERTINO  
DENYING A FENCE EXCEPTION TO ALLOW A SIX-FOOT TALL WALL  
WITHIN THE REQUIRED STREET SIDE SETBACK AND A WALL WITH  
COLUMNS EXCEEDING THE MAXIMUM PERMITTED HEIGHT WITHIN  
THE REQUIRED FRONT YARD SETBACK AT A SINGLE-FAMILY RESIDENCE  
LOCATED AT 20984 ALVES DRIVE (APN 326-31-023)

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SECTION I: PROJECT DESCRIPTION

Application No.: EXC-2017-01

Applicant: Santha Chittajallu

Location: 20984 Alves Drive (APN 326-31-023)

SECTION II: FINDINGS:

WHEREAS, the Design Review Committee of the City of Cupertino received an application for a Fence Exception from the Residential Single Family Zoning regulations as described in Section I of this Resolution; and

WHEREAS, the necessary public notices have been given as required by the Procedural Ordinance of the City of Cupertino, and the Design Review Committee has held at least one Public Meeting in regards to the application; and

WHEREAS, the project is determined to be exempt from the California Environmental Quality Act (CEQA); and

WHEREAS, the applicant has not met the burden of proof required to support said application; and

WHEREAS, the Planning Commission finds as follows with regard to this application:

1. The literal enforcement of the provisions of this chapter will result in restrictions inconsistent with the spirit and intent of this chapter.

*The strict compliance of the setback and height regulations in the Fence Ordinance would not have caused unnecessary hardship or deprived the residents of the safety, privacy, and property protection rights intended in the chapter. There are no special circumstances applicable to the subject property (e.g. location, irregular shape, topography) that would have prevented the street side wall from being located behind the five-foot setback. Additionally, the column heights on the front yard wall provide aesthetics but do not serve a functional purpose for security or privacy.*

2. The granting of the exception will not result in a condition which is materially detrimental to the public health, safety or welfare.

*The wall is not detrimental to the health, safety or welfare because the fence is otherwise consistent in design and material with the City's Fence Ordinance and provides safety and privacy for the property owners.*

3. The exception to be granted is one that will require the least modification of the prescribed regulation and the maximum variance that will accomplish the purpose.

*The six-foot tall wall was built within the required street side setback due to installation error and does not result in the least modification of the prescribed regulation. The applicant could have considered alternate layouts resulting in less setback encroachment to resolve interference with the Cupertino Sanitary cleanout cover and the existing trees which include encroaching only for the portions of the wall where conflicts exist or relocating the wall to an area where no conflicts would exist. The as-built column heights on the front wall are not a necessity as they do not serve a functional purpose for safety and privacy.*

4. The proposed exception will not result in a hazardous condition for pedestrian and vehicular traffic.

*Public Works has reviewed the project and has determined that the existing wall location and height will not be detrimental to pedestrian or vehicular traffic.*

5. The proposed development is otherwise consistent with the City's General Plan and with the purpose of this chapter as described in Section 19.48.010.

*The existing structures on the property, other than the portions of the fence/wall that are the subject of this Fence Exception, are otherwise consistent with the City's General Plan.*

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6. The proposed development meets the requirements of the Santa Clara Fire Department and Sheriff's Department, and if security gates are proposed, that attempts are made to standardize access.

*The Santa Clara Fire Department and the Sheriff's Department have reviewed the plans and have no issues with the walls. These Departments are normally concerned when security gates are proposed.*

NOW, THEREFORE, BE IT RESOLVED:

That after careful consideration of the maps, facts, exhibits, testimony and other evidence submitted in this matter, subject to the conditions which are enumerated in this Resolution beginning on PAGE 2 thereof,:

The application for a Fence Exception to the Residential Single Family zoning regulations, Application no. EXC-2017-01 is hereby DENIED and that the wall be brought into compliance, and

That the sub-conclusions upon which the findings and conditions specified in this Resolution are based and contained in the Public Meeting record concerning Application no.(s) EXC-2017-01 as set forth in the Minutes of Design Review Committee Meeting of August 3, 2017 and are incorporated by reference as though fully set forth herein.

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PASSED AND ADOPTED this 3<sup>rd</sup> day of August, 2017, at the Regular Meeting of the Design Review Committee of the City of Cupertino, State of California, by the following roll call vote:

AYES: MEMBERS:  
NOES: MEMBERS:  
ABSTAIN: MEMBERS:  
ABSENT: MEMBERS:

ATTEST:

APPROVED:

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Jeffrey Tsumura  
Assistant Planner

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Geoffrey Paulsen  
Chair, Design Review Committee