



CITY OF ONTARIO ZONING ADMINISTRATOR AGENDA

January 20, 2021

Ontario City Council Chambers, 2 PM
303 East "B" Street, Ontario

SPECIAL AND URGENT NOTICE ELIMINATING IN-PERSON PUBLIC PARTICIPATION AT CITY OF ONTARIO ZONING ADMINISTRATOR MEETINGS

Due to the directives contained in the Governor's Declarations of Emergency for the State of California (Executive Orders N-25-20 and N-29-20) and the Governor's Stay at Home Order (Executive Order N-33-20), the Zoning Administrator for the City of Ontario is required to limit in-person attendance at the upcoming Zoning Administrator meeting. Members of the public may utilize alternative measures established by the City of Ontario to view the Zoning Administrator meeting and/or to communicate your opinions to the Zoning Administrator. To view the meeting, please go to <http://www.ontarioca.gov/agendas/zoning> and follow the link on that webpage to view the meeting.

Members of the public who wish to provide comment on an item may do so in one of the following manners:

1. **EMAIL:** You can email comments to planningdirector@ontarioca.gov no later than 12:00 PM on the day of the meeting. All comments received by the deadline will be printed for Zoning Administrator consideration before action is taken on that matter. Please identify the agenda item that you wish to address in your comments. All written comments will be included in the record.
2. **TELEPHONE BEFORE THE MEETING:** You can call (909) 395-2036 no later than 12:00 PM on the day of the meeting and let them know that you would like to make a comment on an agenda item.

Any members of the public who require special assistance or a reasonable accommodation to participate in the meeting of the Zoning Administrator may contact Gwen Berendsen at (909) 395-2036 or planningdirector@ontarioca.gov at least 24 hours prior to the meeting.

All documents are available for public review at the City of Ontario Planning Department located at City Hall, 303 East "B" Street, Ontario, California by scheduling an appointment with the Planning Department by calling (909) 395-2036.

PUBLIC HEARING

- A. **ENVIRONMENTAL ASSESSMENT AND FAIR HOUSING/REASONABLE ACCOMMODATION REVIEW FOR FILE NO. PADX20-001**: An application for a Fair Housing and Reasonable Accommodation to request a deviation from the Development Code to allow for a 6 FT iron fence on the front and street side property line for property located at 458 North Azalea Avenue, within the LDR-5 (Low Density Residential – 2.1 to 5.0 du/ac) zoning district. The project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Class 3, New Construction or Conversion of Small Structures) of the CEQA Guidelines. The proposed project is located within the Airport Influence Area of Ontario International Airport, and was evaluated and found to be consistent with the policies and criteria of the Ontario International Airport Land Use Compatibility Plan (ALUCP); (APN: 1010-455-17) **submitted by Laura Argomaniz.**

If you wish to appeal a decision of the Zoning Administrator, you must do so within ten (10) days of the Zoning Administrator action. Please contact the Planning Department for information regarding the appeal process.

If you challenge any action of the Zoning Administrator in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or written correspondence delivered to the Zoning Administrator at, or prior to, the public hearing.

I, Gwen Berendsen, Administrative Assistant of the City of Ontario, or my designee, hereby certify that a true, accurate copy of the foregoing agenda was posted on or before **January 15, 2021**, at least 72 hours prior to the meeting per Government Code Section 54954.2 at 303 East “B” Street, Ontario.





ZONING ADMINISTRATOR DECISION: FAIR HOUSING/REASONABLE ACCOMMODATION

January 20, 2021

303 East B Street, Ontario, California 91764 Phone: 909.395.2036 / Fax: 909.395.2420

DECISION NO.: [insert #]

FILE NO.: PADX20-001

DESCRIPTION: A Fair Housing and Reasonable Accommodation request to deviate from the Development Code to allow 6-foot high decorative tube steel fence on the front and street side property line of property located at 458 North Azalea Avenue, within the LDR-5 (Low Density Residential – 2.1 to 5.0 du/ac) zoning district; (APN 1010-455-17) **submitted by Laura Argomaniz.**

PART 1: BACKGROUND AND ANALYSIS

LAURA ARGOMANIZ, herein after referred to as "Applicant," has filed an application requesting Fair Housing and Reasonable Accommodation approval, File No. PADX20-001, as described in the subject of this Decision (herein after referred to as "Application" or "Project").

PROJECT SETTING: The project site is comprised of 0.15 acres of land developed with an existing 2,000 square foot residence and attached garage, which is located at 458 North Azalea Avenue, and is depicted in Exhibit A: Aerial Photograph, attached. Existing land uses, General Plan and zoning designations, and specific plan land uses on and surrounding the project site are summarized in the table below.

	<i>Existing Land Use</i>	<i>General Plan Designation</i>	<i>Zoning Designation</i>	<i>Specific Plan Land Use</i>
Site:	Residential	Low Density Residential	LDR-5 (Low Density Residential—2.1 to 5.0 DU/Acre)	N/A
North:	Residential	Low Density Residential	LDR-5 (Low Density Residential—2.1 to 5.0 DU/Acre)	N/A
South:	Residential	Low Density Residential	LDR-5 (Low Density Residential—2.1 to 5.0 DU/Acre)	N/A
East:	Commercial	High Density Residential	LDR-5 (Low Density Residential—2.1 to 5.0 DU/Acre)	N/A
West:	Residential	Low Density Residential	LDR-5 (Low Density Residential—2.1 to 5.0 DU/Acre)	N/A

PROJECT ANALYSIS: In compliance with federal and state fair housing laws, the City established the Fair Housing and Reasonable Accommodation review process to provide procedures whereby exceptions from specific applications of the Development Code may be considered and properly evaluated in order to assure that no person is discriminated against on the basis of

race, color, religion, sex, sexual orientation, family status, marital status, disability, national origin, source of income, or ancestry, by being denied an equal opportunity to use and enjoy a dwelling. To this end, Development Code Section 4.02.035 (Fair Housing and Reasonable Accommodation) provides that the Zoning Administrator may approve reasonable exceptions from the provisions of the Development Code, except that a Fair Housing and Reasonable Accommodation request shall not be approved that would allow the establishment of a land use that would not otherwise be allowed in the zoning district in which an affected property is located, or for increases in residential density beyond what would otherwise be permitted by The Ontario Plan, Policy Plan (general plan) Land Use Plan.

The Applicant has installed a 6-foot high decorative tube steel fence along the project site's front and street side property lines. Because the fence does not exceed 6 feet in height, a building permit was not required for its installation and the Applicant was not aware of the Development Code wall and fence requirements applicable to the property at the time of fence installation.

The Applicant is now requesting approval of a Fair Housing and Reasonable Accommodation application to allow for an exception from the maximum fence height allowed along the front property line (Azalea Avenue) and along the portion of street side property line (Flora Street) that falls within the property's front setback area. The Development Code allows for a maximum 3-foot high wall or fence along a front property line and a maximum 6-foot high wall or fence along a street side property line, except that the portion of wall or fence within a property's front setback area must be reduced to a maximum of 3 feet in height.

The Applicant installed the existing fencing as a security measure in response to theft and vandalism that has made the homeowner feel unsafe in her home. Moreover, the Applicant has a disability that limits her mobility (written confirmation of the Applicant's condition has been provided by her doctor), which further adds to her distress. For this reason, the Planning Department has recommended that the Zoning Administrator grant the Fair Housing and Reasonable Accommodation request.

AIRPORT LAND USE COMPATIBILITY PLAN: This project is located within the Airport Influence Area of Ontario International Airport and was evaluated and found to be consistent with the policies and criteria of the Ontario International Airport Land Use Compatibility Plan (ALUCP). Any special conditions of approval associated with uses in close proximity to the airport are attached to this report.

PUBLIC NOTIFICATION: The subject Application was advertised as a public hearing in at least one newspaper of general circulation in the City of Ontario (the Inland Valley Daily Bulletin newspaper). In addition, notices were mailed to all owners of real property located within 300 feet of the exterior boundaries of the property that is the subject of the hearing, as shown on the records of the County Assessor.

CORRESPONDENCE: As of the preparation of this Decision, Planning Department staff has not received any written or verbal communications from the owners of properties surrounding the project site or from the public in general, regarding the subject application.

PART 2: RECITALS

WHEREAS, the City of Ontario has received a request for a Fair Housing and Reasonable Accommodation approval as described in Part I, above; and

WHEREAS, Ontario Development Code Table 2.02-1 (Review Matrix) establishes that the Zoning Administrator has the responsibility and authority to review and act upon Fair Housing and Reasonable Accommodation requests; and

WHEREAS, all members of the Development Advisory Board of the City of Ontario were provided the opportunity to review and comment on the requested Fair Housing and Reasonable Accommodation, and no comments were received opposing the proposed use; and

WHEREAS, not less than 10 days prior to the date of the herein stated decision, the City gave notice, by mail, to all property owners having a property line common with the affected property of the exterior boundary of the subject site, as shown on the latest equalized assessment roll of the County of San Bernardino; and

WHEREAS, no written or verbal correspondence in opposition to the proposed Fair Housing and Reasonable Accommodation has been received; and

WHEREAS, on January 20, 2021, the Zoning Administrator of the City of Ontario conducted a duly noticed public hearing on the application, as follows:

(1) Robert Morales, Assistant Planner, presented the staff report on the proposed use, indicating the staff recommendation of [insert staff recommendation]. Following staff's presentation, the Zoning Administrator opened the public hearing.

(2) [insert speaker's name], the applicant/representing the applicant, explained the business operation and spoke in favor of the application.

(3) [insert additional speaker info]

(4) [insert additional speaker info]

(5) There being no one else to offer testimony regarding the application, the Zoning Administrator closed the public hearing.

WHEREAS, all legal prerequisites to the adoption of this Decision have occurred.

PART 3: THE DECISION

NOW, THEREFORE, it is hereby found, determined, and resolved by the Zoning Administrator of the City of Ontario as follows:

(1) All facts set forth in this Zoning Administrator Report and Decision are true and correct.

(2) Based upon the evidence presented to the Zoning Administrator during the above-referenced public hearing, the Zoning Administrator hereby makes the following Fair Housing and Reasonable Accommodation findings:

(a) *The persons who will use the subject property are protected under federal and state fair housing laws.* The Fair Housing Act defines disability as a physical or mental

impairment that substantially limits one or more major life activities. The impairment must be permanent (continued for longer than 6-9 months) to be covered by the Fair Housing Act as those terms are defined in California Government Code section 12926, anyone who is regarded as having such a condition or anyone who has a record of having such a condition. The applicant has provided adequate justification of their disability in the form of a written report signed by a physician.

(b) *The requested exception is necessary to make specific housing available to a person who will occupy the subject property and who is protected under federal and state fair housing laws.* The resident's disability affects their ability to protect their property and their person. The applicant previously had a 3 FT high chain-link fence improved on their property but has been subject to personal theft and vandalism. Therefore, the applicant installed the 6 FT high wrought iron fence on the front and street side property lines to provide safety to their property and person. The purpose of the 6 FT high wrought iron fence is to create a barrier for the specific purpose of protecting the disabled person and their property.

(c) *The requested exception will not impose an undo financial or administrative burden upon the City.* The proposal would not impose any undue financial or administrative burden on the City as the Project would be subject to all applicable planning and building permit fees and would not result in any extraordinary administrative burden on the City.

(d) *The requested exception will comply with all applicable Building and Fire Codes and will not result in a fundamental alteration of the planning, zoning and development laws and procedures of the City.* The residence is within the LDR-5 (Low Density Residential—2.1 to 5.0 DU/Acre zoning district. The proposed accommodation would not result in an expansion of the existing building footprint; however, it would result in a deviation of Development Code's Wall and Fence Design Standards for Residential Districts. Currently, the Development Code allows walls and fences up to 3 FT in height along front or street side property lines. The height requirement would increase from 3 FT to 6 FT along the front and side property lines. This is within the scope of what would be considered a minor deviation from the applicable standard, particularly since the proposal would not result in any exterior expansion of the structure.

(3) The Zoning Administrator hereby finds and determines that the Project identified in this Decision is categoric ally exempt from the requirements of the California Environmental Quality Act of 1970, as amended, and the Guidelines promulgated thereunder, pursuant to Section 15301 of the State CEQA Guidelines.

(4) The Zoning Administrator hereby finds and determines that the proposed Project is located within the Airport Influence Area of Ontario International Airport (ONT) and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plan (ALUCP) for ONT.

(5) Based upon the findings and conclusions set forth in Parts 1, 2, and 3 above, the Zoning Administrator hereby approves File No. PADX20-001, subject to the following condition:

(a) Should the individual for which this Fair Housing and Reasonable Accommodation ("FHRA") has been granted no longer resided on the subject site, the area of front yard fencing that is the subject of this FHRA shall be immediately modified so as to not exceed the maximum fence height standard in place at the time, or shall be completely removed.

APPROVED AND ADOPTED this 20th day of January 2021.

Rudy Zeledon
Zoning Administrator

Exhibit A: AERIAL PHOTOGRAPH

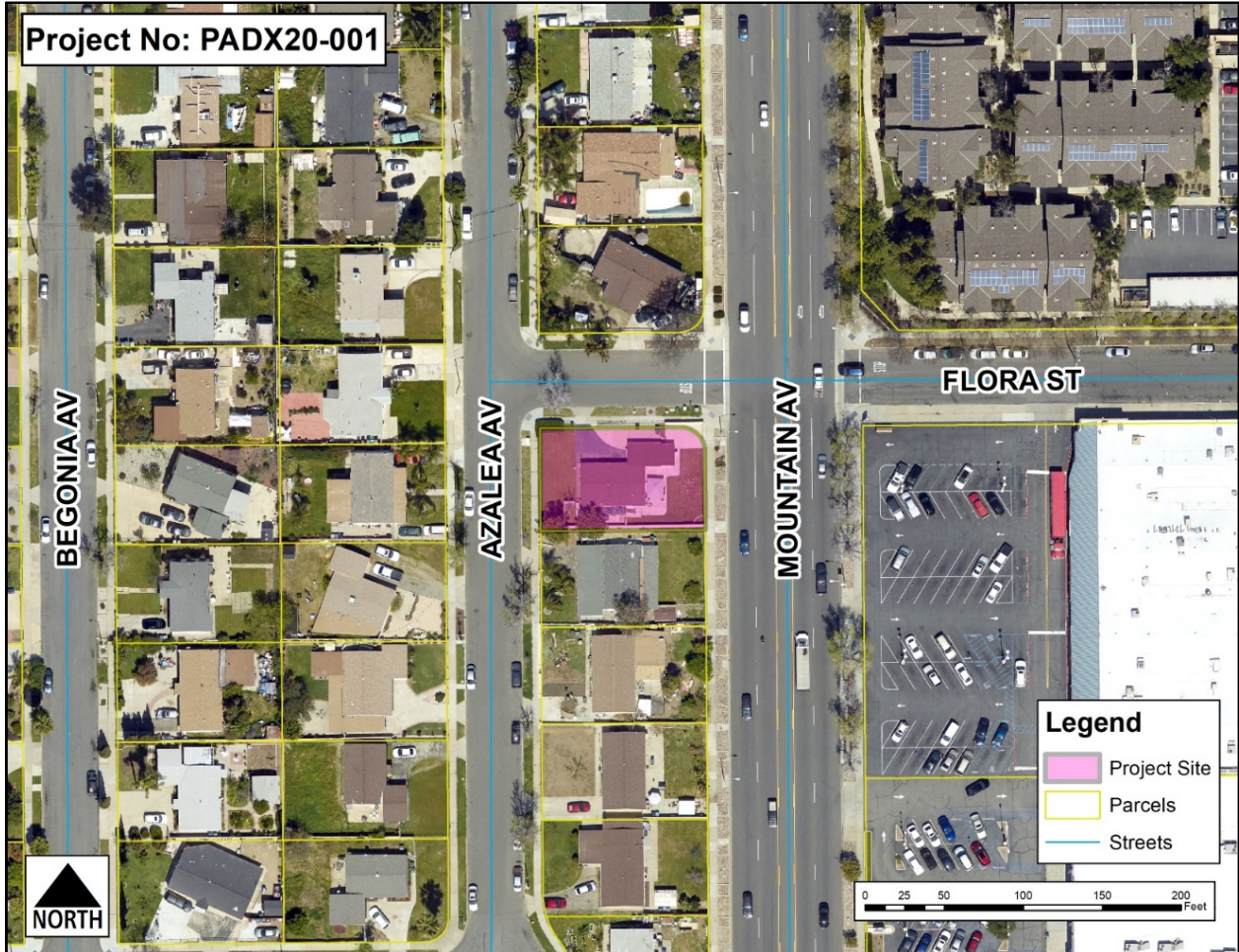


Exhibit B: SITE PHOTOS

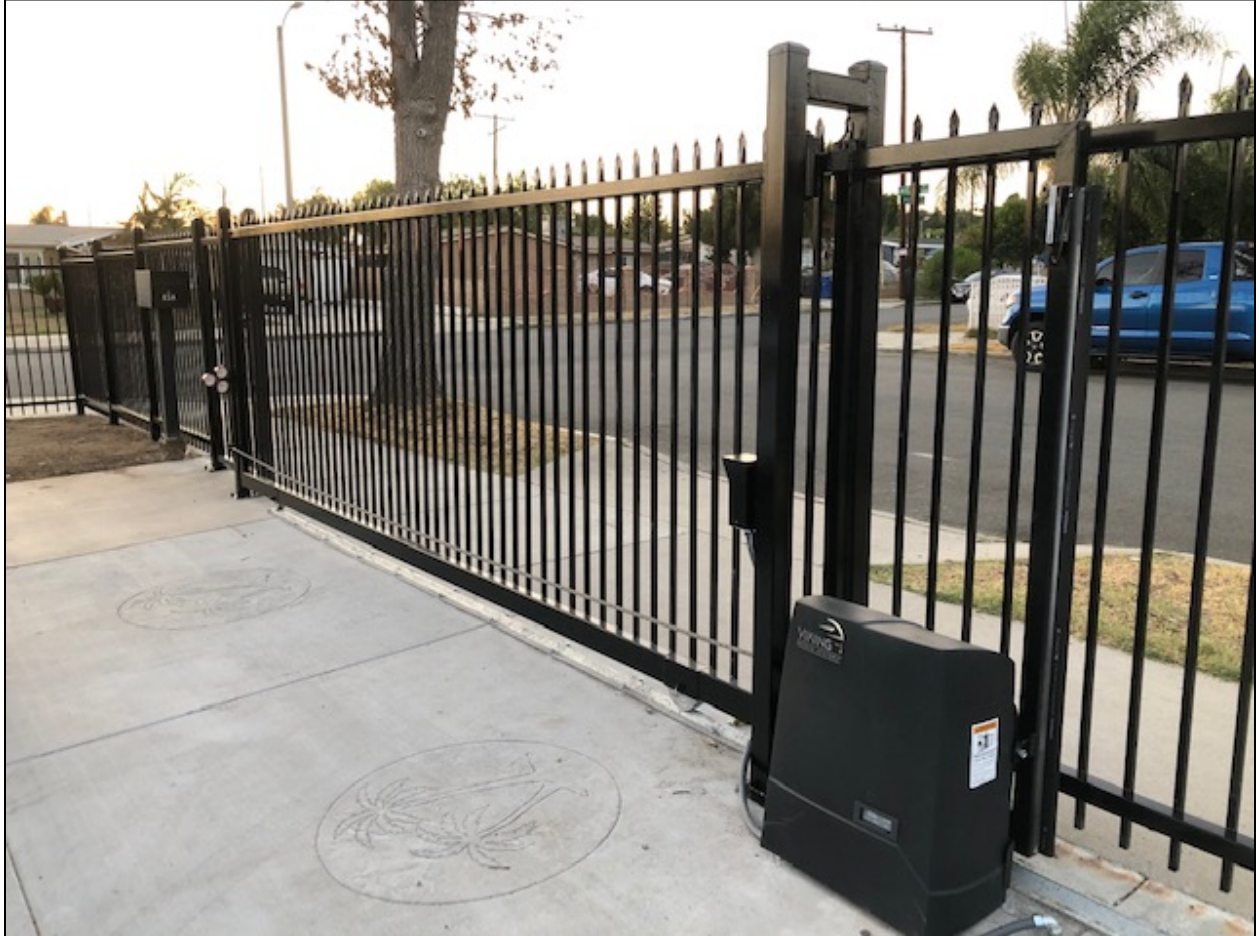


Exhibit C: SITE PHOTOS



Exhibit D: SITE PHOTOS



Exhibit E: SITE PHOTOS

