



LAND USE SERVICES DEPARTMENT PLANNING COMMISSION STAFF REPORT

HEARING DATE: April 6, 2023

AGENDA ITEM# 4

Project Description

APN:	0315-521-26
Applicant:	MARGARET GABOUTCHIAN
Community/	BIG BEAR CITY / 3RD SUPERVISORIAL
District:	DISTRICT
Location:	1308 SHADOW HILL CT., BIG BEAR CITY, CA 92314
Project No:	PRAR-2021-00001
Staff:	JON BRAGINTON, PLANNER
Rep:	Noune Somokranian
Proposal:	MAJOR REASONABLE ACCOMMODATION FOR THE CONSTRUCTION OF A 6-FOOT HIGH WROUGHT IRON FENCE WITH BLOCK PILASTERS WITHIN THE FRONT YARD SETBACK AND AN 8-FOOT-HIGH WROUGHT IRON FENCE WITH BLOCK PILASTERS WITHIN THE REAR AND SIDE YARD SETBACKS, ON AN EXISTING DEVELOPED ONE-ACRE PARCEL.

Vicinity Map



15 Hearing Notices Sent on : March 22, 2023

Report Prepared By: Jon Braginton, Planner

SITE INFORMATION:

Parcel Size: 1.0 acre
 Terrain: Gently sloping mountain area
 Vegetation: Natural mountain vegetation with native trees surrounding a single-family residential structure.

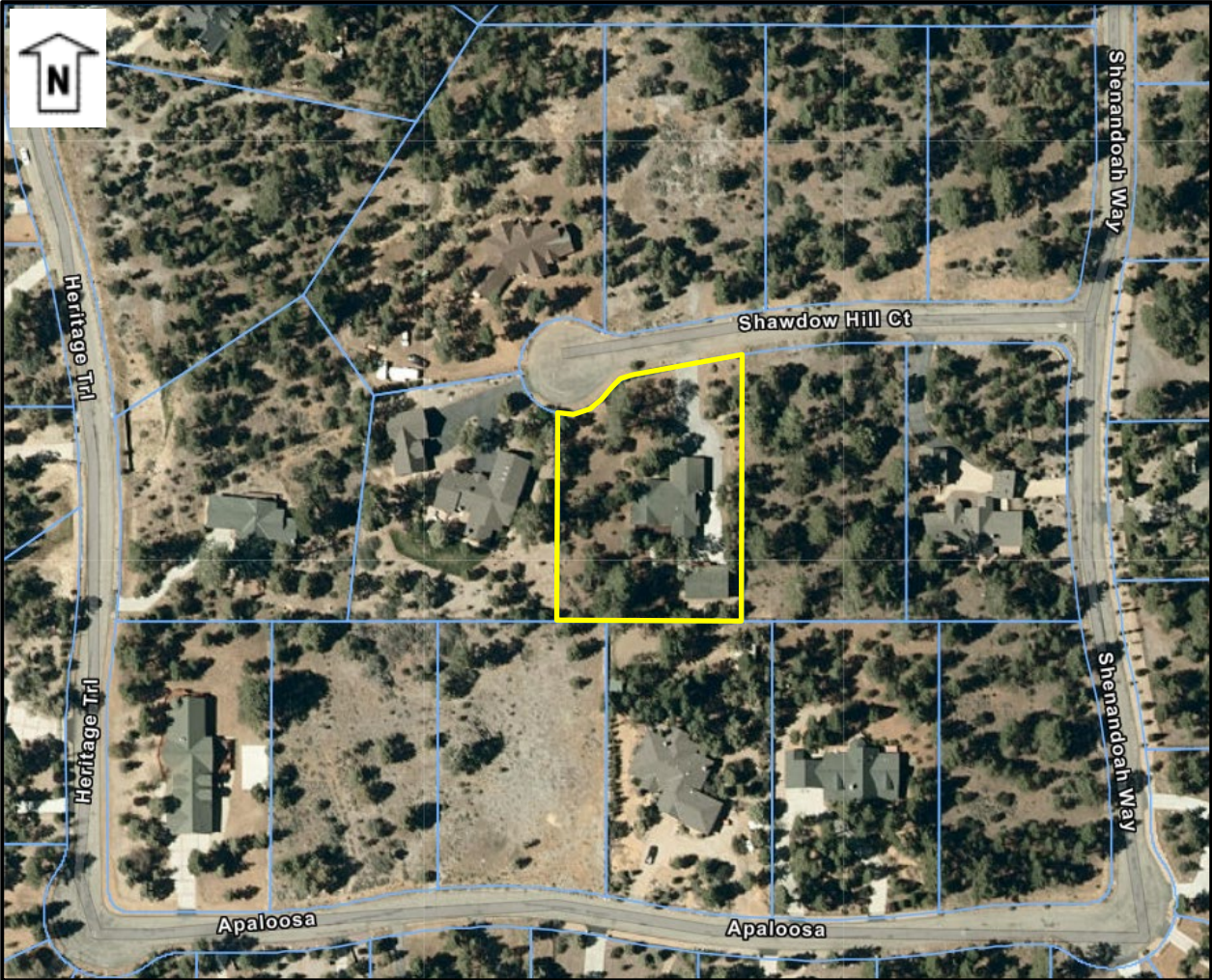
TABLE 1 – SITE AND SURROUNDING LAND USES AND ZONING:

AREA	EXISTING LAND USE	LAND USE CATEORY	ZONING DISTRICT
SITE	Residential Structure	Very Low Density Residential (LDR)	Single Residential – 1 Acre Min. (RS-1)
North	Vacant	Very Low Density Residential (LDR)	Single Residential – 1 Acre Min. (RS-1)
South	Residential Structure	Very Low Density Residential (LDR)	Single Residential – 1 Acre Min. (RS-1)
East	Vacant	Very Low Density Residential (LDR)	Single Residential – 1 Acre Min. (RS-1)
West	Residential Structure	Very Low Density Residential (LDR)	Single Residential – 1 Acre Min. (RS-1)

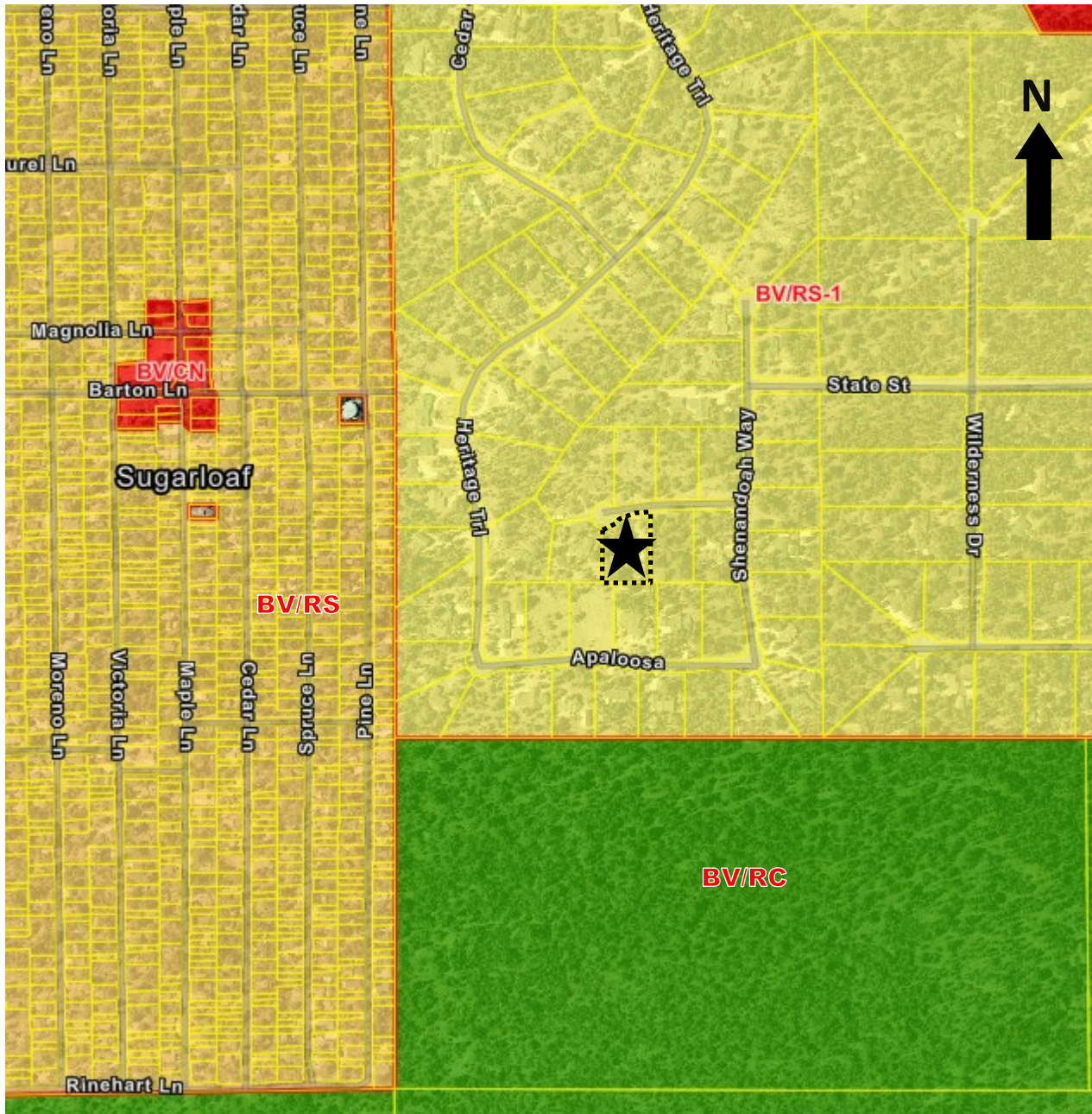
	<u>AGENCY</u>	<u>COMMENT</u>
City Sphere of Influence:	N/A	
Sewer Service	N/A	Septic
Water Service:	Big Bear Municipal Walter District	Existing Water Service

STAFF RECOMMENDATION: That the Planning Commission **ADOPT** the Findings to Approve the Major Reasonable Accommodation for the 8-foot fence for the rear and side yard setbacks; **ADOPT** the Findings to Deny the Major Reasonable Accommodation for the 6-foot fence for the front yard setback; **APPROVE** the Major Reasonable Accommodation for the 8-foot fence, subject to the conditions of approval; and **DENY** the Major Reasonable Accommodation for the 6-foot fence.

VICINITY MAP



OFFICIAL LAND USE DISTRICT MAP



SITE PHOTOS



View of the driveway from the street.



View of the 6-foot high block pilaster within front yard setback.

SITE PHOTOS (Cont.)



[View of 6-foot high pilasters within front yard setback facing southeast



View of 6-foot high pilasters within front yard setback facing southwest]

SITE PHOTOS (Cont.)



View of 6-foot high pilasters within front yard setback facing southwest



View of 6-foot high pilasters within front yard setback facing northeast

SITE PHOTOS (Cont.)



View of neighbor fence facing towards southwest

PROJECT DESCRIPTION AND BACKGROUND:

The applicant, Margaret Gaboutchian, is requesting a reasonable accommodation to exceed the maximum fence height within the front yard, side yards and rear yard setbacks within the Single Residential 1-acre minimum (RS-1) zoning district. Maximum fence heights within the RS-1 zone are regulated by Section 83.06.030 of the San Bernardino County Code (SBCC) and provide the following maximum fence heights:

<i>Table 83-6</i>				
<i>Maximum Height of Fences, Hedges, and Walls Within Setbacks</i>				
<i>Land Use Zoning Districts</i>	<i>Maximum Height in Setbacks⁽¹⁾</i>			
	<i>Front</i>	<i>Street Side</i>	<i>Interior Side</i>	<i>Rear</i>
All other land use zoning districts	4 ft.	4 ft.	6 ft.	6 ft.

The applicant is seeking an accommodation to exceed the maximum fence height within the front, side and rear yard setback areas by two feet, which includes the construction of a 6-foot fence with block pilasters within the front setback and an 8-foot fence with block pilasters within the sides and rear setback areas (collectively referred to as the “Reasonable Accommodation Request”).

The grounds asserted for the Reasonable Accommodation Request is to accommodate the needs of the applicant suffering from severe anxiety disorder related to a dog attack and the need for increased safety measures in order for said individual to live in the residence of their choice. The applicant residing in the home has provided a letter from a physician with the recommendation of “appropriate security measures” around the home to mitigate symptoms (Refer to Exhibit E).

The parcel associated with the Reasonable Accommodation Request is located at 1308 Shadow Hill Court in the unincorporated community of Big Bear City (Property). The Property is one acre in size and is developed with a single-family residential structure as shown in the site photos.

The Reasonable Accommodation Request was originally to be scheduled for a Zoning Administrator Hearing. However, to the complexity of the request and of the level of public responses received in opposition to the proposal, the Reasonable Accommodation Request, in accordance with Development Code Section 84.31.040(b)(4) has been referred to the Planning Commission to deliberate and decide on the appropriate direction.

LEGAL BACKGROUND:

Attached to this staff report is a Joint Statement of the Department of Housing and Urban Development and the Department of Justice regarding reasonable accommodations under the Fair Housing Act that was developed to provide technical assistance regarding the rights and obligation of persons with disabilities and housing providers related to reasonable accommodations. Below is a summary of the applicable law discussed in the Joint Statement:

Fair Housing and Accommodations:

The federal Fair Housing Amendments Act of 1988 (the Act) and California's Fair Employment and Housing Act prohibit discrimination against individuals with disabilities in housing and require that the County take affirmative action to eliminate regulations and practices that deny housing opportunities to individuals with disabilities. More specifically, fair housing laws require that the County provide individuals with disabilities or developers of housing for people with disabilities, flexibility in the application of land use and zoning and building regulations, practices and procedures.

While fair housing laws intend that all people have equal access to housing, the law recognizes that individuals with disabilities may need extra tools to achieve equality. Providing reasonable accommodation is one way for the County to provide relief from land use, zoning and building regulations and procedures that have the effect of discriminating against the development, siting and use of housing for individuals with disabilities. Under the Act, it is unlawful for the County to refuse "to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford ... person(s) [with disabilities] equal opportunity to use and enjoy a dwelling." (42 U.S.C. § 3604(f)(3)(B).)

Persons Protected Under the Act:

The Act defines a person with a disability to include (1) individuals with a physical or mental impairment that substantially limits one or more major life activities; (2) individuals who are regarded as having such an impairment; and (3) individuals with a record of such an impairment. The term "physical or mental impairment" includes, but is not limited to, emotional illness. The term "substantially limits" suggests that the limitation is "significant" or "to a large degree." The term "major life activity" means those activities that are of central importance to daily life, such as seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, and speaking.

Under the Act, it is usually unlawful for the County to ask about the nature or severity of such person's disabilities. However, the County may request reliable disability-related information that (1) is necessary to verify that the person meets the Act's definition of disability (i.e., has a mental impairment that substantially limits one or more major life activities), (2) described the needed accommodation, and (3) shows the relationship between the person's disability and the need for the required accommodation. A doctor or other medical professional who is in a position to know about the individual's disability may provide verification of a disability. If the requester's disability is known or readily apparent to the County, but the need for the accommodation is not readily apparent or known, the County may request only information that is necessary to evaluate the disability-related need for the accommodation.

Reasonable Accommodation:

A reasonable accommodation under the Act is a change, exception, or adjustment to a rule, policy, practice, or service (Program) that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. To show that a requested accommodation may be necessary, there must be an identifiable relationship, or nexus, between the requested accommodation and the individual's disability.

The County can deny a request for a reasonable accommodation if the request was not made by or on behalf of a person with a disability or if there is no disability related need for the accommodation. In addition, a request for a reasonable accommodation may be denied if providing the accommodation is not reasonable – i.e., if it would impose an undue financial and administrative burden on the County or it would fundamentally alter the nature of the County's Program.

84.31.050 Required Findings - An approval of a request for reasonable accommodation must be supported by the following findings set forth in Subsection 84.31.050 of the County Development Code.

1. The housing, which is the subject of the request for reasonable accommodation, will be occupied as the primary residence by an individual protected under the Fair Housing Laws.
2. The request for reasonable accommodation is necessary to make specific housing available to one or more individuals protected under the Fair Housing Laws.
3. The requested reasonable accommodation will not impose an undue financial or administrative burden on the County.
4. The requested accommodation will not require a fundamental alteration of the zoning or building laws, policies and/or procedures of the County.
5. The requested accommodation will not, under the specific facts of the case, result in a direct threat to the health and safety of other individuals or substantial physical damage to the property of others.

The County may also consider the following factors in determining whether the requested accommodation is necessary to provide an individual with a disability an equal opportunity to use and enjoy a dwelling:

1. Whether the requested accommodation will affirmatively enhance the quality of life of one or more individuals with a disability.
2. Whether the individual or individuals with a disability will be denied an equal opportunity to enjoy the housing type of their choice absent the accommodation.

ANALYSIS:

The proposed Reasonable Accommodation Request would allow the construction of 6-foot-high wrought iron fence with pilasters within the front yard setback and an 8-foot-high fence with pilasters within the side and rear yard setbacks of the Property for an existing single-family residence. As more detailed in the findings (Exhibit A), staff recommends granting the requested accommodation in part, as to the 8-foot foot fencing and pilasters within the sides and rear yard setbacks, and denying the requested accommodation in part, as to the 6-foot fencing for the entire front yard setback area.

Side and Rear Setback Fencing Accommodation:

Staff recommends granting approval of the 8-foot fencing and pilasters within the sides and rear yard setbacks, provided the 8-foot fence does not to extend within 25-foot front yard setback area of the property. Further, and as included in the Conditions of Approval (Exhibit B), it is recommended that the applicant post a surety bond with the County to provide adequate funding to modify and lower the fence from 8 feet to 6 feet at such time that the reasonable accommodation is no longer needed. In granting the request for this reasonable accommodation, County Staff is also recommending specific conditions of approval that address potential building code and safety requirements. Permits are required to build, alter, repair, move, or demolish any structure.

Front Setback Fencing Accommodation:

Staff recommends denying approval of the 6-foot fencing and pilasters within the front yard setback based on three grounds, each of which alone would be sufficient to deny the request. The grounds for denial are summarized as follows:

- **Necessary:** The reason alleged by the applicant for requesting the 6-foot-high wrought iron fence in the front yard setback is the need for increased safety measures to relieve severe anxiety disorder related to a dog attack. To prove a requested accommodation is necessary, the applicant must show that, but for the accommodation, they likely will be denied an equal opportunity to enjoy the housing of their choice. The applicant has failed to provide evidence that the height of the front yard fence is a necessary accommodation. Here, the dwelling unit is located on a one-acre parcel and generally located in the center of the lot. Staff finds that there is no identifiable relationship, or nexus, between the request for the increase in height for the front perimeter fencing and the disability since the lot is large in size and additional fencing, or other more reasonable security measures, can be installed outside of the front perimeter without the need for the requested accommodation, such as the installation of an on-site fence connecting the side of the dwelling unit with the perimeter side yard fencing. Moreover, there is no identifiable relationship or evidence that the request for 6-foot high fence in the front yard setback will affirmatively enhance the quality of life of the applicant, as compared to the standard 4-foot fence, given that the applicant is requesting an 8-foot-high fence at the rear and side setback as the necessary and appropriate security measure to accommodate the disability.
- **Fundamental Alteration:** The 6-foot-high wrought iron fence with block pilasters, located within the front yard setback is at odds with the fundamental purposes of limiting encroachments and obstructions within areas of ingress and egress. Specifically, the fence encroaches within the clear sight triangle, as defined in Development Code Section 83.02.030, which would be a fundamental alteration of a safety standard.
- **Direct Threat:** The 6-foot fence with block pilasters is located within the clear sight triangle of the Property's driveway, which poses a direct threat to the health and safety of other individuals because it will obstruct adequate visibility of the property owner, neighboring properties, pedestrians and vehicle traffic in the area.

PUBLIC COMMENTS:

On August 4, 2021, fifteen project notices were sent to surrounding property owners within 300 feet of the Property. In response, County staff received numerous comments in opposition to the reasonable accommodation, detailing concerns regarding safety issues related to the lack of adequate visibility, unpermitted construction and incompatible design with adjacent structures and the surrounding neighborhood (Refer to Exhibit D: Public Comments). A confirmation response was sent to all who provided a response.

The County Planning Division sent out project notices on March 22, 2023, advertising the Planning Commission Hearing to be held on April 6, 2023.

CALIFORNIA ENVIRONMENTAL QUALITY ACT:

In compliance with the California Environmental Quality Act (CEQA), County staff determined that the request for the proposed Reasonable Accommodation Request is not a project as defined by CEQA Guidelines, 14 CCR Section 15378 and therefore not subject to CEQA. Alternatively, County staff finds

that even if the proposed Reasonable Accommodation Request was subject to CEQA it would be exempt pursuant to 14 CCR Section 15061(b)(3), the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Here, the request would allow for the construction of a fence that will be reviewed by the County's Building and Safety Division under a ministerial permit and subject to objective criteria.

RECOMMENDATION: That the Planning Commission:

1. **ADOPT** the Findings to Approve the Major Reasonable Accommodation for the 8-foot fence and pilasters within the rear and side yard setbacks, as contained in the staff report (Exhibit A);
2. **ADOPT** the Findings to Deny the Major Reasonable Accommodation for a 6-foot fence and pilasters within the 25-foot front yard setback, as contained in the staff report (Exhibit A);
3. **APPROVE** the Major Reasonable Accommodation for the 8-foot-high wrought fence and pilasters within the rear and the side yard setbacks, but not within the 25-foot front yard setback area, subject to the Conditions of Approval (Exhibit B); and
4. **DENY** the Major Reasonable Accommodation for the 6-foot-high wrought iron fence and pilasters within the 25-foot front yard setback area.
5. **DIRECT** staff to issue a Notice of Decision consistent with the Planning Commission's actions.

ATTACHMENTS:

- Exhibit A: Findings
- Exhibit B: Conditions of Approval
- Exhibit C: Joint Statement of DOJ and HUD
- Exhibit D: Public Comments
- Exhibit E: Letter from Medical Doctor

EXHIBIT A

Findings

FINDINGS: MAJOR REASONABLE ACCOMMODATION APPLICATION

FINDINGS AND SUPPORTING FACTS FOR APPROVAL OF A MAJOR REASONABLE ACCOMMODATION REQUEST FOR THE CONSTRUCTION AN 8-FOOT-HIGH WROUGHT IRON FENCE WITH BLOCK PILASTERS WITHIN THE REAR AND SIDE YARD SETBACKS, LOCATED AT 1308 SHADOW HILL COURT ON A ONE (1) ACRE PARCEL; APN: 0315-521-26; PRAR-2021-00001.

- 1. The housing, which is the subject of the request for reasonable accommodation, will be occupied as the primary residence by an individual protected under the federal Fair Housing Act and state Fair Employment and Housing Act.**

Facts:

- 1A.** The Applicant has requested a reasonable accommodation to construct a wrought iron fence with block pilasters, 8-feet in height within the rear and side yard setbacks as a means of providing emotional support for a disabled person residing in the single-family residence, located at 1308 Shadow Hill Court, Big Bear City, CA. The dwelling is the subject of the request.
 - 1B.** The disabled person requiring the reasonable accommodation will occupy the dwelling unit and is presumed by the County to be protected under the federal Fair Housing Act and state Fair Employment and Housing Act (Fair Housing Laws) based on the evidence provided. The Applicant provided a physician’s letter describing the disabled persons disability that includes a recommendation of “appropriate security measures” around the home to decrease their chances of anxiety attacks and/or other symptoms related to their condition.
- 2. The request for reasonable accommodation is necessary to make specific housing available to one or more individuals protected under the Fair Housing Laws.**

Facts:

- 2A.** The parcel is in the community of Big Bear City, in the Mountain Region of the unincorporated area of San Bernardino County at 1308 Shadow Hill Court (Property). The Property has a Land Use Zoning Designation of Single Residential 1-acre minimum (RS-1) and currently occupied by a single-family residential structure. The Property is 1-acre in size, located at the end of a cul-de-sac street and the single-family residential structure is generally situated in the center of the parcel.
- 2B.** The Applicant is requesting a reasonable accommodation that entails the proposed fence height to exceed the maximum allowed under Development Code Section 83.06.030 General Height Limitations. In the Single Residential Zoning (RS) Zoning, the development code allows for a maximum fence height of 6-feet within

the interior side yards and rear setbacks of the property. The reason alleged by the applicant for requesting the accommodation is the need for increased safety measures to relieve severe anxiety disorder related to a dog attack.

- 2C.** The Fair Housing Act (FHA) prohibits discrimination on the basis of a handicap in the “sale or rental of a dwelling, or in the provision of services or facilities in connection with such a dwelling” and affirmatively requires reasonable accommodations for a handicapped person’s residence. 42 U.S.C. §3604(f)(2). Prohibited discrimination includes “a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such a person equal opportunity to use and enjoy a dwelling.” 42. U.S.C. §3640(f)(3).
- 2D.** To show that a requested accommodation may be necessary, there must be an identifiable relationship, or nexus, between the requested accommodation and the individual’s disability. An accommodation will be deemed "necessary" if it will affirmatively enhance a disabled person's quality of life by ameliorating the effects of the disability. To prove a requested accommodation is "necessary," the disabled person must show that, but for the accommodation, they likely will be denied an equal opportunity to enjoy the housing of their choice.
- 2E.** Based on the record, the review authority finds that the requested accommodation is necessary because it will assist in providing improved security (e.g., an 8-foot high fence around the rear and side setbacks where animals generally congregate) in hindering outside wild animals, neighboring pets, or abandoned stray pets from potentially accessing the property to otherwise harm or frighten the disabled person. However, such a requested accommodation can only be supported if the Applicant agrees to set parameters as offered to and granted in the Conditions of Approval, which in part would include reducing the height of the fence and pilasters to no higher than 6-feet once the reasonable accommodation is no longer needed by the disabled person. Further, that the applicant shall provide a surety bond as assurance that the fence and pilasters are removed or reduced to 6-feet in height once the reasonable accommodation is no longer needed by the disabled person.
- 3. The requested reasonable accommodation will not impose an undue financial or administrative burden on the County.**

Facts:

- 3A.** The existing single family residential structure has not generated any undue costs related to administrative or enforcement activity that would be considered a financial or administrative burden on the County.
- 3B.** No financial or administrative burden would be created by granting the reasonable accommodation. The project has been conditioned with a surety bond to

adequately fund for the modification (lowering) of the 8-foot-high wrought fence iron and pilasters to 6-feet in height, at such a time that the disabled person is no longer in need of the reasonable accommodation.

- 4. The requested accommodation will not require a fundamental alteration of the zoning or building laws, policies and/or procedures of the County.**

Facts:

- 4A.** The requested accommodation for the 8-foot-high wrought iron fence and pilasters within the rear and side yards will not require a fundamental alteration of the zoning or building laws, policies and/or procedures of the County. In consideration of the conditions of approval placed on the reasonable accommodation, the findings required for the 8-foot-high wrought fence and pilasters within the rear and side yard setbacks can be made in the affirmative for emotional support. Development Code Section 84.31.050(a)(4).

- 5. The requested accommodation (in-part) will not, under the specific facts of the case, result in a direct threat to the health and safety of other individuals or substantial physical damage to the property of others.**

Facts:

- 5A.** The requested accommodation for the 8-foot-high wrought iron fence and pilasters within the rear and side yard setbacks will not, under the specific facts of the case, result in a direct threat to the health and safety of other individuals or substantial physical damage to the property of others. With conditions of approval placed on the reasonable accommodation, all the findings required for this accommodation can be made in the affirmative for emotional support.

End of Findings

FINDINGS: MAJOR REASONABLE ACCOMMODATION APPLICATION

FINDINGS AND SUPPORTING FACTS FOR DENIAL OF A MAJOR REASONABLE ACCOMMODATION REQUEST FOR THE CONSTRUCTION OF A 6-FOOT HIGH WROUGHT IRON FENCE WITH BLOCK PILASTERS WITHIN THE FRONT YARD SETBACK LOCATED AT 1308 SHADOW HILL COURT ON A ONE (1) ACRE PARCEL; APN: 0315-521-26; PRAR-2021-00001.

- 1. The request for reasonable accommodation is not necessary to make specific housing available to one or more individuals protected under the Fair Housing Laws.**

Facts:

- 1A.** The parcel is in the community of Big Bear City, in the Mountain Region of the unincorporated area of San Bernardino County and located at 1308 Shadow Hill Court (Property). The Property has a Land Use Zoning Designation of Single Residential 1-acre minimum (RS-1) and currently occupied by a single-family residential structure. The Property is 1-acre in size, located at the end of a cul-de-sac street and the single-family residential structure is generally situated in the center of the parcel.
- 1B.** The Applicant is requesting a reasonable accommodation that entails a proposed fence height to exceed the maximum allowed under Development Code Section 83.06.030 General Height Limitations. In the Single Residential (RS) Zoning, the development code allows for a maximum fence height of 4-feet within the front yard setback and 6-feet within the interior side yards and rear setbacks. The reason alleged by the applicant for requesting the 6-foot-high wrought iron fence in the front yard setback is the need for increased safety measures to relieve severe anxiety disorder related to a dog attack.
- 1C.** The Fair Housing Act (FHA) prohibits discrimination on the basis of a handicap in the "sale or rental of a dwelling, or in the provision of services or facilities in connection with such a dwelling" and affirmatively requires reasonable accommodations for a handicapped person's residence. 42 U.S.C. §3604(f)(2). Prohibited discrimination includes "a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such a person equal opportunity to use and enjoy a dwelling." 42. U.S.C. §3640(f)(3).
- 1D.** To show that a requested accommodation may be necessary, there must be an identifiable relationship, or nexus, between the requested accommodation and the individual's disability. An accommodation will be deemed "necessary" if it will affirmatively enhance a disabled person's quality of life by ameliorating the effects of the disability. To prove a requested accommodation is "necessary," the disabled person must show that, but for the accommodation, they likely will be denied an equal opportunity to enjoy the housing of their choice.

1E. The applicant has failed to provide sufficient evidence that the height of the front yard fence is a necessary accommodation. The review authority finds that there is no identifiable relationship, or nexus, between the request for the increase in height for the front perimeter fencing, as a security measure, and the disability given that the Property is considerably large and additional fencing, or other more appropriate security measures, can be installed outside of the front perimeter without the need for the requested accommodation, such as the installation of an on-site fence connecting the side of the dwelling unit with the perimeter side yard fencing. Moreover, there is no identifiable relationship or evidence that the request for 6-foot high fence in the front yard setback will affirmatively enhance the quality of life of the applicant, as compared to the standard 4-foot fence, given that the applicant is requesting an 8-foot-high fence at the rear and side setback as being the necessary and appropriate security measure to accommodate the disability and given evidence that the applicant may have been residing at the Property without the requested accommodation. This finding cannot be made in the affirmative. Therefore, denying the accommodation request for a 6-foot-high fence within the front yard setback is necessary

2. The requested accommodation will require a fundamental alteration of the zoning or building laws, policies and/or procedures of the County.

Facts:

2A. Based upon the evidence presented, specifically the site photos, a 6-foot-high wrought iron fence with block pilasters, located within the front yard setback is at odds with the fundamental purposes of limiting encroachments and obstructions within areas of ingress and egress resulting not only in a fundamental alteration of the Development Code, but also a direct threat to the health and safety of other individuals or substantial physical damage to the property of others because it will obstruct the view and eliminate adequate visibility for the property owner, neighboring properties, pedestrian, and vehicle traffic. Specifically, the fence encroaches within the clear sight triangle, as defined in Development Code Section 83.02.030, which would be a fundamental alteration of a safety standard and presents a direct threat and hazard to the Applicant, pedestrians, and motorists. Contrary to the intended purpose of providing the requested accommodation, the added fence height and location would contribute to safety risks and is not reasonable in light of the size of the Property and the fact that alternative security measures (i.e., interior front yard fencing equal to or greater than 6 feet in height) can be made outside of the front yard setback (25-feet). This finding cannot be made in the affirmative. Therefore, denying the accommodation request for a 6-foot-high fence within the front yard setback would avoid creating a fundamental alteration pursuant to Development Code Section 84.31.050(a)(4).

3. The requested accommodation will under the specific facts of the case, result in a direct threat to the health and safety of other individuals or substantial physical damage to the property of others.

Facts:

- 3A.** A request for the reasonable accommodation may be denied if granting it would pose a “direct threat to the health or safety of other individuals or result in substantial physical damage to the property of others.” 42 U.S.C. §3604 (f)(9). This exception may only be used when, based on the specific facts of a situation, a requested reasonable accommodation results in a significant and particularized threat. Cases interpreting this exception have indicated that requested reasonable accommodation cannot be denied due to generalized fears of the risk posed by disabled persons. However, there are known specific facts of this case that confirm that granting the request would pose a direct threat to the health or safety of other individuals or substantial physical damage to the property of others. The review authority considered the applicant’s evidence. Based upon the evidence presented (e.g., site photos, comment letters, oral testimony), a 6-foot-high wrought iron fence with block pilasters within the front yard setback would result in a direct threat to the health and safety of other individuals or substantial physical damage to the property of others because the proposed 6-foot fence and block pilasters are within the clear-sight triangle of the driveway entrance to the Property, which will obstruct adequate visibility of the property owner, neighboring properties, pedestrians, and vehicle traffic. Development Code Section 84.31.050(a)(5). Therefore, denying the accommodation request for a 6-foot-high fence within the front yard setback would avoid creating a direct threat.

End of Findings

EXHIBIT B

Conditions of Approval

CONDITIONS OF APPROVAL

Major Reasonable Accommodation Permit
Margaret Gaboutchian

PROJECT DESCRIPTION

Project Approval Description. A MAJOR REASONABLE ACCOMMODATION REQUEST FOR THE CONSTRUCTION OF AN 8-FOOT-HIGH WROUGHT IRON FENCE WITH BLOCK PILASTERS WITHIN THE REAR AND SIDE YARD SETBACKS, ON AN EXISTING DEVELOPED ONE-ACRE PARCEL IN THE UNINCORPORATED AREA OF BIG BEAR CITY, 3RD SUPERVISORIAL DISTRICT, APN: 0315-521-26; PROJECT NUMBER: PRAR-2021-00001.

The fence plan shall be constructed and operated in compliance with the San Bernardino County Code (SBCC), California Building Codes (CBC) San Bernardino County Fire Code, and the following conditions of approval. The developer shall provide a copy of the approved conditions and the fence plan to every current and future property owner to facilitate compliance with these conditions of approval and continuous use requirements for the project site.

NOTICES

1. Project Location. The Project site is within a parcel totaling approximately 1.0-acres located at 1308 Shadowhill Court (APN 0315-521-26).
2. Revisions. Any proposed change to the approved fence plan shall require an additional land use review and application subject to approval by the County. The developer shall prepare, submit with fees and obtain approval of the application prior to implementing any such revision or modification. (SBCC §86.06.070).
3. Indemnification. In compliance with SBCC §81.01.070, the developer shall agree, to defend, indemnify, and hold harmless the County or its “indemnitees” (herein collectively the County’s elected officials, appointed officials (including Planning Commissioners), Zoning Administrator, agents, officers, employees, volunteers, advisory agencies or committees, appeal boards or legislative body) from any claim, action, or proceeding against the County or its indemnitees to attack, set aside, void, or annul an approval of the County by an indemnitee concerning a map or permit or any other action relating to or arising out of County approval, including the acts, errors or omissions of any person and for any costs or expenses incurred by the indemnitees on account of any claim, except where such indemnification is prohibited by law. In the alternative, the developer may agree to relinquish such approval.

Any condition of approval imposed in compliance with the County Development Code or County General Plan shall include a requirement that the County acts reasonably to promptly notify the developer of any claim, action, or proceeding and that the County cooperates fully in the defense. The developer shall reimburse the County and its indemnitees for all expenses resulting from such actions, including any court costs and attorney fees, which the County or its indemnitees may be required by a court to pay as a result of such action.

The County may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the developer of their obligations under this condition to reimburse the County or its indemnitees for all such expenses.

This indemnification provision shall apply regardless of the existence or degree of fault of indemnitees. The developer’s indemnification obligation applies to the indemnitees’ “passive” negligence but does not apply to the indemnitees’ “sole” or “active” negligence or “willful misconduct” within the meaning of Civil Code Section 2782.

4. Expiration. This project permit approval shall expire and become void if it is not “exercised” within three (3) years of the effective date of this approval, unless an extension of time is approved. The permit is deemed “exercised” when either:
 - a. The permittee has commenced actual construction or alteration under a validly issued building permit,
or

- b. The permittee has substantially commenced the approved land use or activity on the project site, for those portions of the project not requiring a building permit. (SBCC §86.06.060)

PLEASE NOTE: This will be the ONLY notice given of this approval's expiration date. The developer/property owner is responsible to initiate any Extension of Time application.

5. Enforcement. If any County enforcement activities are required to enforce compliance with the conditions of approval, the property owner or developer shall be charged for such enforcement activities in accordance with the County Code Schedule of Fees.
6. Project Account. The Project account number is PRAR-2021-00001. This is an actual cost project with a deposit account to which hourly charges are assessed by various county agency staff (e.g. Land Use Services, Public Works, and County Counsel). Upon notice, the "developer" shall deposit additional funds to maintain or return the account to a positive balance. The "developer" is responsible for all expense charged to this account. Processing of the project shall cease, if it is determined that the account has a negative balance and that an additional deposit has not been made in a timely manner. A minimum balance of \$1,000.00 must be in the project account at the time the Condition Compliance Review is initiated. Sufficient funds must remain in the account to cover the charges during each compliance review. All fees required for processing shall be paid in full prior to final inspection, occupancy and operation of the approved use.
7. Development Impact Fees. Additional fees may be required prior to issuance of development permits. Fees shall be paid as specified in adopted fee ordinances.
8. Clear Sight Triangle. Adequate visibility for vehicular and pedestrian traffic shall be provided at clear sight triangles at all 90-degree angle intersections of public rights-of-way and private driveways. All signs, structures and landscaping located within any clear sight triangle shall comply with the height and location requirements specified by County Development Code (SBCC§ 83.02.030) or as otherwise required by County Traffic.
9. Construction Hours. Construction will be limited to the hours of 7:00 a.m. to 7:00 p.m., Monday through Saturday in accordance with the County of San Bernardino Development Code standards, with the exception of concrete pouring at night, which will comply with the County of San Bernardino's Noise Standards. No other construction activities are permitted outside of these hours or on Sundays and Federal holidays.
10. Construction Noise. The following measures shall be adhered to during the construction phase of the project:
 - a. All construction equipment shall be muffled in accordance with manufacturer's specifications.
 - b. All construction staging shall be performed as far as possible from occupied dwellings. The location of staging areas shall be subject to review and approval by the County prior to the issuance of grading and/or building permits.
 - c. All stationary construction equipment shall be placed in a manner so that emitted noise is directed away from sensitive receptors (e.g. residences and schools) nearest the project site.
11. Condition Compliance: In order to obtain construction permits for grading, building, final inspection and/or tenant occupancy for each approved building, the developer shall comply with all of the conditions for each of the respective stages of development. The developer shall obtain written clearance (email is ok) that all of the conditions have been satisfied prior to issuance of any permits.

PRIOR TO ISSUANCE OF BUILDING PERMITS

The Following Shall Be Completed:

LAND USE SERVICES DEPARTMENT – Planning (909) 387-8311

12. The Applicant shall submit a revised Fence Plan consistent with the height specifications as recommended and approved by the Planning Commission.
 13. At such time that the Reasonable Accommodation is no longer needed by the applicant, the 8-foot fence and block pilasters within the side and rear yard of the property shall be removed or lowered to a height not exceeding 6-feet. The Applicant shall post a Surety Bond with the County to provide adequate funding to modify and lower the fence from 8-feet to 6-feet at such time that the reasonable accommodation is no longer needed. The bond amount shall be determined by submitting a cost estimate, prepared by a licensed contractor that shall be subject to review and approval by the County Building Official.
-

PRIOR TO FINAL INSPECTION OR OCCUPANCY

The Following Shall Be Completed

14. The project shall be constructed consistent with the approved and revised Fence Plan and confirmed through a final site inspection by the Planning Division.
15. The driveway entrance shall maintain a Clear Site Triangle as confirmed through a final site inspection by the Building Inspector.
16. Project fencing shall be clear of all construction debris (i.e., stucco, wrought iron scrap, concrete and cobble rock debris) and properly removed to an identified licensed receiver of the construction debris.

END OF CONDITIONS

EXHIBIT C

Joint Statement of DOJ and HUD



U.S. DEPARTMENT OF JUSTICE
CIVIL RIGHTS DIVISION



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY

Washington, D.C.
May 17, 2004

**JOINT STATEMENT OF
THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
AND THE DEPARTMENT OF JUSTICE**

***REASONABLE ACCOMMODATIONS UNDER THE
FAIR HOUSING ACT***

Introduction

The Department of Justice ("DOJ") and the Department of Housing and Urban Development ("HUD") are jointly responsible for enforcing the federal Fair Housing Act¹ (the "Act"), which prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, familial status, and disability.² One type of disability discrimination prohibited by the Act is the refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford a person with a disability the equal opportunity to use and enjoy a dwelling.³ HUD and DOJ frequently respond to complaints alleging that housing providers have violated the Act by refusing reasonable accommodations to persons with disabilities. This Statement provides technical assistance regarding the rights and obligations of persons with disabilities and housing providers under the Act relating to

¹ The Fair Housing Act is codified at 42 U.S.C. §§ 3601 - 3619.

² The Act uses the term "handicap" instead of the term "disability." Both terms have the same legal meaning. See *Bragdon v. Abbott*, 524 U.S. 624, 631 (1998) (noting that definition of "disability" in the Americans with Disabilities Act is drawn almost verbatim "from the definition of 'handicap' contained in the Fair Housing Amendments Act of 1988"). This document uses the term "disability," which is more generally accepted.

³ 42 U.S.C. § 3604(f)(3)(B).

reasonable accommodations.⁴

Questions and Answers

1. What types of discrimination against persons with disabilities does the Act prohibit?

The Act prohibits housing providers from discriminating against applicants or residents because of their disability or the disability of anyone associated with them⁵ and from treating persons with disabilities less favorably than others because of their disability. The Act also makes it unlawful for any person to refuse “to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford ... person(s) [with disabilities] equal opportunity to use and enjoy a dwelling.”⁶ The Act also prohibits housing providers from refusing residency to persons with disabilities, or placing conditions on their residency, because those persons may require reasonable accommodations. In addition, in certain circumstances, the Act requires that housing providers allow residents to

⁴ Housing providers that receive federal financial assistance are also subject to the requirements of Section 504 of the Rehabilitation Act of 1973. 29 U.S.C. § 794. Section 504, and its implementing regulations at 24 C.F.R. Part 8, prohibit discrimination based on disability and require recipients of federal financial assistance to provide reasonable accommodations to applicants and residents with disabilities. Although Section 504 imposes greater obligations than the Fair Housing Act, (*e.g.*, providing and paying for reasonable accommodations that involve structural modifications to units or public and common areas), the principles discussed in this Statement regarding reasonable accommodation under the Fair Housing Act generally apply to requests for reasonable accommodations to rules, policies, practices, and services under Section 504. See U.S. Department of Housing and Urban Development, Office of Public and Indian Housing, Notice PIH 2002-01(HA) (www.hud.gov/offices/fheo/disabilities/PIH02-01.pdf) and “Section 504: Frequently Asked Questions,” (www.hud.gov/offices/fheo/disabilities/sect504faq.cfm#anchor272118).

⁵ The Fair Housing Act’s protection against disability discrimination covers not only home seekers with disabilities but also buyers and renters without disabilities who live or are associated with individuals with disabilities 42 U.S.C. § 3604(f)(1)(B), 42 U.S.C. § 3604(f)(1)(C), 42 U.S.C. § 3604(f)(2)(B), 42 U.S.C. § (f)(2)(C). See also H.R. Rep. 100-711 – 24 (reprinted in 1988 U.S.C.A.N. 2173, 2184-85) (“The Committee intends these provisions to prohibit not only discrimination against the primary purchaser or named lessee, but also to prohibit denials of housing opportunities to applicants because they have children, parents, friends, spouses, roommates, patients, subtenants or other associates who have disabilities.”). *Accord*: Preamble to Proposed HUD Rules Implementing the Fair Housing Act, 53 Fed. Reg. 45001 (Nov. 7, 1988) (citing House Report).

⁶ 42 U.S.C. § 3604(f)(3)(B). HUD regulations pertaining to reasonable accommodations may be found at 24 C.F.R. § 100.204.

make reasonable structural modifications to units and public/common areas in a dwelling when those modifications may be necessary for a person with a disability to have full enjoyment of a dwelling.⁷ With certain limited exceptions (*see* response to question 2 below), the Act applies to privately and publicly owned housing, including housing subsidized by the federal government or rented through the use of Section 8 voucher assistance.

2. Who must comply with the Fair Housing Act's reasonable accommodation requirements?

Any person or entity engaging in prohibited conduct – *i.e.*, refusing to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling – may be held liable unless they fall within an exception to the Act's coverage. Courts have applied the Act to individuals, corporations, associations and others involved in the provision of housing and residential lending, including property owners, housing managers, homeowners and condominium associations, lenders, real estate agents, and brokerage services. Courts have also applied the Act to state and local governments, most often in the context of exclusionary zoning or other land-use decisions. *See e.g.*, City of Edmonds v. Oxford House, Inc., 514 U.S. 725, 729 (1995); Project Life v. Glendening, 139 F. Supp. 703, 710 (D. Md. 2001), aff'd 2002 WL 2012545 (4th Cir. 2002). Under specific exceptions to the Fair Housing Act, the reasonable accommodation requirements of the Act do not apply to a private individual owner who sells his own home so long as he (1) does not own more than three single-family homes; (2) does not use a real estate agent and does not employ any discriminatory advertising or notices; (3) has not engaged in a similar sale of a home within a 24-month period; and (4) is not in the business of selling or renting dwellings. The reasonable accommodation requirements of the Fair Housing Act also do not apply to owner-occupied buildings that have four or fewer dwelling units.

3. Who qualifies as a person with a disability under the Act?

The Act defines a person with a disability to include (1) individuals with a physical or mental impairment that substantially limits one or more major life activities; (2) individuals who are regarded as having such an impairment; and (3) individuals with a record of such an impairment.

The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.

⁷ This Statement does not address the principles relating to reasonable modifications. For further information see the HUD regulations at 24 C.F.R. § 100.203. This statement also does not address the additional requirements imposed on recipients of Federal financial assistance pursuant to Section 504, as explained in the Introduction.

The term "substantially limits" suggests that the limitation is "significant" or "to a large degree."

The term "major life activity" means those activities that are of central importance to daily life, such as seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, and speaking.⁸ This list of major life activities is not exhaustive. *See e.g., Bragdon v. Abbott*, 524 U.S. 624, 691-92 (1998)(holding that for certain individuals reproduction is a major life activity).

4. Does the Act protect juvenile offenders, sex offenders, persons who illegally use controlled substances, and persons with disabilities who pose a significant danger to others?

No, juvenile offenders and sex offenders, by virtue of that status, are not persons with disabilities protected by the Act. Similarly, while the Act does protect persons who are recovering from substance abuse, it does not protect persons who are currently engaging in the current illegal use of controlled substances.⁹ Additionally, the Act does not protect an individual with a disability whose tenancy would constitute a "direct threat" to the health or safety of other individuals or result in substantial physical damage to the property of others unless the threat can be eliminated or significantly reduced by reasonable accommodation.

5. How can a housing provider determine if an individual poses a direct threat?

The Act does not allow for exclusion of individuals based upon fear, speculation, or stereotype about a particular disability or persons with disabilities in general. A determination that an individual poses a direct threat must rely on an individualized assessment that is based on reliable objective evidence (*e.g.*, current conduct, or a recent history of overt acts). The assessment must consider: (1) the nature, duration, and severity of the risk of injury; (2) the probability that injury will actually occur; and (3) whether there are any reasonable accommodations that will eliminate the direct threat. Consequently, in evaluating a recent history of overt acts, a provider must take into account whether the individual has received intervening treatment or medication that has eliminated the direct threat (*i.e.*, a significant risk of substantial harm). In such a situation, the provider may request that the individual document

⁸ The Supreme Court has questioned but has not yet ruled on whether "working" is to be considered a major life activity. *See Toyota Motor Mfg. Kentucky, Inc. v. Williams*, 122 S. Ct. 681, 692, 693 (2002). If it is a major activity, the Court has noted that a claimant would be required to show an inability to work in a "broad range of jobs" rather than a specific job. *See Sutton v. United Airlines, Inc.*, 527 U.S. 470, 492 (1999).

⁹ *See, e.g., United States v. Southern Management Corp.*, 955 F.2d 914, 919 (4th Cir. 1992) (discussing exclusion in 42 U.S.C. § 3602(h) for "current, illegal use of or addiction to a controlled substance").

how the circumstances have changed so that he no longer poses a direct threat. A provider may also obtain satisfactory assurances that the individual will not pose a direct threat during the tenancy. The housing provider must have reliable, objective evidence that a person with a disability poses a direct threat before excluding him from housing on that basis.

Example 1: A housing provider requires all persons applying to rent an apartment to complete an application that includes information on the applicant's current place of residence. On her application to rent an apartment, a woman notes that she currently resides in Cambridge House. The manager of the apartment complex knows that Cambridge House is a group home for women receiving treatment for alcoholism. Based solely on that information and his personal belief that alcoholics are likely to cause disturbances and damage property, the manager rejects the applicant. The rejection is unlawful because it is based on a generalized stereotype related to a disability rather than an individualized assessment of any threat to other persons or the property of others based on reliable, objective evidence about the applicant's recent past conduct. The housing provider may not treat this applicant differently than other applicants based on his subjective perceptions of the potential problems posed by her alcoholism by requiring additional documents, imposing different lease terms, or requiring a higher security deposit. However, the manager could have checked this applicant's references to the same extent and in the same manner as he would have checked any other applicant's references. If such a reference check revealed objective evidence showing that this applicant had posed a direct threat to persons or property in the recent past and the direct threat had not been eliminated, the manager could then have rejected the applicant based on direct threat.

Example 2: James X, a tenant at the Shady Oaks apartment complex, is arrested for threatening his neighbor while brandishing a baseball bat. The Shady Oaks' lease agreement contains a term prohibiting tenants from threatening violence against other residents. Shady Oaks' rental manager investigates the incident and learns that James X threatened the other resident with physical violence and had to be physically restrained by other neighbors to keep him from acting on his threat. Following Shady Oaks' standard practice of strictly enforcing its "no threats" policy, the Shady Oaks rental manager issues James X a 30-day notice to quit, which is the first step in the eviction process. James X's attorney contacts Shady Oaks' rental manager and explains that James X has a psychiatric disability that causes him to be physically violent when he stops taking his prescribed medication. Suggesting that his client will not pose a direct threat to others if proper safeguards are taken, the attorney requests that the rental manager grant James X an exception to the "no threats" policy as a reasonable accommodation based on James X's disability. The Shady Oaks rental manager need only grant the reasonable accommodation if James X's attorney can provide satisfactory assurance that James X will receive appropriate counseling and

periodic medication monitoring so that he will no longer pose a direct threat during his tenancy. After consulting with James X, the attorney responds that James X is unwilling to receive counseling or submit to any type of periodic monitoring to ensure that he takes his prescribed medication. The rental manager may go forward with the eviction proceeding, since James X continues to pose a direct threat to the health or safety of other residents.

6. What is a "reasonable accommodation" for purposes of the Act?

A “reasonable accommodation” is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. Since rules, policies, practices, and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others will sometimes deny them an equal opportunity to use and enjoy a dwelling. The Act makes it unlawful to refuse to make reasonable accommodations to rules, policies, practices, or services when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling.

To show that a requested accommodation may be necessary, there must be an identifiable relationship, or nexus, between the requested accommodation and the individual’s disability.

Example 1: A housing provider has a policy of providing unassigned parking spaces to residents. A resident with a mobility impairment, who is substantially limited in her ability to walk, requests an assigned accessible parking space close to the entrance to her unit as a reasonable accommodation. There are available parking spaces near the entrance to her unit that are accessible, but those spaces are available to all residents on a first come, first served basis. The provider must make an exception to its policy of not providing assigned parking spaces to accommodate this resident.

Example 2: A housing provider has a policy of requiring tenants to come to the rental office in person to pay their rent. A tenant has a mental disability that makes her afraid to leave her unit. Because of her disability, she requests that she be permitted to have a friend mail her rent payment to the rental office as a reasonable accommodation. The provider must make an exception to its payment policy to accommodate this tenant.

Example 3: A housing provider has a "no pets" policy. A tenant who is deaf requests that the provider allow him to keep a dog in his unit as a reasonable accommodation. The tenant explains that the dog is an assistance animal that will alert him to several sounds, including knocks at the door, sounding of the smoke detector, the telephone ringing, and cars coming into the driveway. The housing

provider must make an exception to its “no pets” policy to accommodate this tenant.

7. Are there any instances when a provider can deny a request for a reasonable accommodation without violating the Act?

Yes. A housing provider can deny a request for a reasonable accommodation if the request was not made by or on behalf of a person with a disability or if there is no disability-related need for the accommodation. In addition, a request for a reasonable accommodation may be denied if providing the accommodation is not reasonable – *i.e.*, if it would impose an undue financial and administrative burden on the housing provider or it would fundamentally alter the nature of the provider's operations. The determination of undue financial and administrative burden must be made on a case-by-case basis involving various factors, such as the cost of the requested accommodation, the financial resources of the provider, the benefits that the accommodation would provide to the requester, and the availability of alternative accommodations that would effectively meet the requester's disability-related needs.

When a housing provider refuses a requested accommodation because it is not reasonable, the provider should discuss with the requester whether there is an alternative accommodation that would effectively address the requester's disability-related needs without a fundamental alteration to the provider's operations and without imposing an undue financial and administrative burden. If an alternative accommodation would effectively meet the requester's disability-related needs and is reasonable, the provider must grant it. An interactive process in which the housing provider and the requester discuss the requester's disability-related need for the requested accommodation and possible alternative accommodations is helpful to all concerned because it often results in an effective accommodation for the requester that does not pose an undue financial and administrative burden for the provider.

Example: As a result of a disability, a tenant is physically unable to open the dumpster placed in the parking lot by his housing provider for trash collection. The tenant requests that the housing provider send a maintenance staff person to his apartment on a daily basis to collect his trash and take it to the dumpster. Because the housing development is a small operation with limited financial resources and the maintenance staff are on site only twice per week, it may be an undue financial and administrative burden for the housing provider to grant the requested daily trash pick-up service. Accordingly, the requested accommodation may not be reasonable. If the housing provider denies the requested accommodation as unreasonable, the housing provider should discuss with the tenant whether reasonable accommodations could be provided to meet the tenant's disability-related needs – for instance, placing an open trash collection can in a location that is readily accessible to the tenant so the tenant can dispose of his own trash and the provider's maintenance staff can then transfer the trash to the dumpster when they are on site. Such an accommodation would not involve a

fundamental alteration of the provider's operations and would involve little financial and administrative burden for the provider while accommodating the tenant's disability-related needs.

There may be instances where a provider believes that, while the accommodation requested by an individual is reasonable, there is an alternative accommodation that would be equally effective in meeting the individual's disability-related needs. In such a circumstance, the provider should discuss with the individual if she is willing to accept the alternative accommodation. However, providers should be aware that persons with disabilities typically have the most accurate knowledge about the functional limitations posed by their disability, and an individual is not obligated to accept an alternative accommodation suggested by the provider if she believes it will not meet her needs and her preferred accommodation is reasonable.

8. What is a “fundamental alteration”?

A "fundamental alteration" is a modification that alters the essential nature of a provider's operations.

Example: A tenant has a severe mobility impairment that substantially limits his ability to walk. He asks his housing provider to transport him to the grocery store and assist him with his grocery shopping as a reasonable accommodation to his disability. The provider does not provide any transportation or shopping services for its tenants, so granting this request would require a fundamental alteration in the nature of the provider's operations. The request can be denied, but the provider should discuss with the requester whether there is any alternative accommodation that would effectively meet the requester's disability-related needs without fundamentally altering the nature of its operations, such as reducing the tenant's need to walk long distances by altering its parking policy to allow a volunteer from a local community service organization to park her car close to the tenant's unit so she can transport the tenant to the grocery store and assist him with his shopping.

9. What happens if providing a requested accommodation involves some costs on the part of the housing provider?

Courts have ruled that the Act may require a housing provider to grant a reasonable accommodation that involves costs, so long as the reasonable accommodation does not pose an undue financial and administrative burden and the requested accommodation does not constitute a fundamental alteration of the provider's operations. The financial resources of the provider, the cost of the reasonable accommodation, the benefits to the requester of the requested accommodation, and the availability of other, less expensive alternative accommodations that would effectively meet the applicant or resident's disability-related needs must be considered in determining whether a requested accommodation poses an undue financial and administrative

burden.

10. What happens if no agreement can be reached through the interactive process?

A failure to reach an agreement on an accommodation request is in effect a decision by the provider not to grant the requested accommodation. If the individual who was denied an accommodation files a Fair Housing Act complaint to challenge that decision, then the agency or court receiving the complaint will review the evidence in light of applicable law and decide if the housing provider violated that law. For more information about the complaint process, see question 19 below.

11. May a housing provider charge an extra fee or require an additional deposit from applicants or residents with disabilities as a condition of granting a reasonable accommodation?

No. Housing providers may not require persons with disabilities to pay extra fees or deposits as a condition of receiving a reasonable accommodation.

Example 1: A man who is substantially limited in his ability to walk uses a motorized scooter for mobility purposes. He applies to live in an assisted living facility that has a policy prohibiting the use of motorized vehicles in buildings and elsewhere on the premises. It would be a reasonable accommodation for the facility to make an exception to this policy to permit the man to use his motorized scooter on the premises for mobility purposes. Since allowing the man to use his scooter in the buildings and elsewhere on the premises is a reasonable accommodation, the facility may not condition his use of the scooter on payment of a fee or deposit or on a requirement that he obtain liability insurance relating to the use of the scooter. However, since the Fair Housing Act does not protect any person with a disability who poses a direct threat to the person or property of others, the man must operate his motorized scooter in a responsible manner that does not pose a significant risk to the safety of other persons and does not cause damage to other persons' property. If the individual's use of the scooter causes damage to his unit or the common areas, the housing provider may charge him for the cost of repairing the damage (or deduct it from the standard security deposit imposed on all tenants), if it is the provider's practice to assess tenants for any damage they cause to the premises.

Example 2: Because of his disability, an applicant with a hearing impairment needs to keep an assistance animal in his unit as a reasonable accommodation. The housing provider may not require the applicant to pay a fee or a security deposit as a condition of allowing the applicant to keep the assistance animal. However, if a tenant's assistance animal causes damage to the applicant's unit or the common areas of the dwelling, the housing provider may charge the tenant for

the cost of repairing the damage (or deduct it from the standard security deposit imposed on all tenants), if it is the provider's practice to assess tenants for any damage they cause to the premises.

12. When and how should an individual request an accommodation?

Under the Act, a resident or an applicant for housing makes a reasonable accommodation request whenever she makes clear to the housing provider that she is requesting an exception, change, or adjustment to a rule, policy, practice, or service because of her disability. She should explain what type of accommodation she is requesting and, if the need for the accommodation is not readily apparent or not known to the provider, explain the relationship between the requested accommodation and her disability.

An applicant or resident is not entitled to receive a reasonable accommodation unless she requests one. However, the Fair Housing Act does not require that a request be made in a particular manner or at a particular time. A person with a disability need not personally make the reasonable accommodation request; the request can be made by a family member or someone else who is acting on her behalf. An individual making a reasonable accommodation request does not need to mention the Act or use the words "reasonable accommodation." However, the requester must make the request in a manner that a reasonable person would understand to be a request for an exception, change, or adjustment to a rule, policy, practice, or service because of a disability.

Although a reasonable accommodation request can be made orally or in writing, it is usually helpful for both the resident and the housing provider if the request is made in writing. This will help prevent misunderstandings regarding what is being requested, or whether the request was made. To facilitate the processing and consideration of the request, residents or prospective residents may wish to check with a housing provider in advance to determine if the provider has a preference regarding the manner in which the request is made. However, housing providers must give appropriate consideration to reasonable accommodation requests even if the requester makes the request orally or does not use the provider's preferred forms or procedures for making such requests.

Example: A tenant in a large apartment building makes an oral request that she be assigned a mailbox in a location that she can easily access because of a physical disability that limits her ability to reach and bend. The provider would prefer that the tenant make the accommodation request on a pre-printed form, but the tenant fails to complete the form. The provider must consider the reasonable accommodation request even though the tenant would not use the provider's designated form.

13. Must a housing provider adopt formal procedures for processing requests for a reasonable accommodation?

No. The Act does not require that a housing provider adopt any formal procedures for reasonable accommodation requests. However, having formal procedures may aid individuals with disabilities in making requests for reasonable accommodations and may aid housing providers in assessing those requests so that there are no misunderstandings as to the nature of the request, and, in the event of later disputes, provide records to show that the requests received proper consideration.

A provider may not refuse a request, however, because the individual making the request did not follow any formal procedures that the provider has adopted. If a provider adopts formal procedures for processing reasonable accommodation requests, the provider should ensure that the procedures, including any forms used, do not seek information that is not necessary to evaluate if a reasonable accommodation may be needed to afford a person with a disability equal opportunity to use and enjoy a dwelling. See Questions 16 - 18, which discuss the disability-related information that a provider may and may not request for the purposes of evaluating a reasonable accommodation request.

14. Is a housing provider obligated to provide a reasonable accommodation to a resident or applicant if an accommodation has not been requested?

No. A housing provider is only obligated to provide a reasonable accommodation to a resident or applicant if a request for the accommodation has been made. A provider has notice that a reasonable accommodation request has been made if a person, her family member, or someone acting on her behalf requests a change, exception, or adjustment to a rule, policy, practice, or service because of a disability, even if the words “reasonable accommodation” are not used as part of the request.

15. What if a housing provider fails to act promptly on a reasonable accommodation request?

A provider has an obligation to provide prompt responses to reasonable accommodation requests. An undue delay in responding to a reasonable accommodation request may be deemed to be a failure to provide a reasonable accommodation.

16. What inquiries, if any, may a housing provider make of current or potential residents regarding the existence of a disability when they have not asked for an accommodation?

Under the Fair Housing Act, it is usually unlawful for a housing provider to (1) ask if an applicant for a dwelling has a disability or if a person intending to reside in a dwelling or anyone associated with an applicant or resident has a disability, or (2) ask about the nature or severity of such persons' disabilities. Housing providers may, however, make the following inquiries, provided these inquiries are made of all applicants, including those with and without disabilities:

- An inquiry into an applicant's ability to meet the requirements of tenancy;
- An inquiry to determine if an applicant is a current illegal abuser or addict of a controlled substance;
- An inquiry to determine if an applicant qualifies for a dwelling legally available only to persons with a disability or to persons with a particular type of disability; and
- An inquiry to determine if an applicant qualifies for housing that is legally available on a priority basis to persons with disabilities or to persons with a particular disability.

Example 1: A housing provider offers accessible units to persons with disabilities needing the features of these units on a priority basis. The provider may ask applicants if they have a disability and if, in light of their disability, they will benefit from the features of the units. However, the provider may not ask applicants if they have other types of physical or mental impairments. If the applicant's disability and the need for the accessible features are not readily apparent, the provider may request reliable information/documentation of the disability-related need for an accessible unit.

Example 2: A housing provider operates housing that is legally limited to persons with chronic mental illness. The provider may ask applicants for information needed to determine if they have a mental disability that would qualify them for the housing. However, in this circumstance, the provider may not ask applicants if they have other types of physical or mental impairments. If it is not readily apparent that an applicant has a chronic mental disability, the provider may request reliable information/documentation of the mental disability needed to qualify for the housing.

In some instances, a provider may also request certain information about an applicant's or a resident's disability if the applicant or resident requests a reasonable accommodation. See Questions 17 and 18 below.

17. What kinds of information, if any, may a housing provider request from a person with an obvious or known disability who is requesting a reasonable accommodation?

A provider is entitled to obtain information that is necessary to evaluate if a requested reasonable accommodation may be necessary because of a disability. If a person's disability is obvious, or otherwise known to the provider, and if the need for the requested accommodation is also readily apparent or known, then the provider may not request any additional information

about the requester's disability or the disability-related need for the accommodation.

If the requester's disability is known or readily apparent to the provider, but the need for the accommodation is not readily apparent or known, the provider may request only information that is necessary to evaluate the disability-related need for the accommodation.

Example 1: An applicant with an obvious mobility impairment who regularly uses a walker to move around asks her housing provider to assign her a parking space near the entrance to the building instead of a space located in another part of the parking lot. Since the physical disability (*i.e.*, difficulty walking) and the disability-related need for the requested accommodation are both readily apparent, the provider may not require the applicant to provide any additional information about her disability or the need for the requested accommodation.

Example 2: A rental applicant who uses a wheelchair advises a housing provider that he wishes to keep an assistance dog in his unit even though the provider has a "no pets" policy. The applicant's disability is readily apparent but the need for an assistance animal is not obvious to the provider. The housing provider may ask the applicant to provide information about the disability-related need for the dog.

Example 3: An applicant with an obvious vision impairment requests that the leasing agent provide assistance to her in filling out the rental application form as a reasonable accommodation because of her disability. The housing provider may not require the applicant to document the existence of her vision impairment.

18. If a disability is not obvious, what kinds of information may a housing provider request from the person with a disability in support of a requested accommodation?

A housing provider may not ordinarily inquire as to the nature and severity of an individual's disability (*see* Answer 16, above). However, in response to a request for a reasonable accommodation, a housing provider may request reliable disability-related information that (1) is necessary to verify that the person meets the Act's definition of disability (*i.e.*, has a physical or mental impairment that substantially limits one or more major life activities), (2) describes the needed accommodation, and (3) shows the relationship between the person's disability and the need for the requested accommodation. Depending on the individual's circumstances, information verifying that the person meets the Act's definition of disability can usually be provided by the individual himself or herself (*e.g.*, proof that an individual under 65 years of age receives Supplemental Security Income or Social Security Disability Insurance benefits¹⁰ or a credible statement by the individual). A doctor or other

¹⁰ Persons who meet the definition of disability for purposes of receiving Supplemental Security Income ("SSI") or Social Security Disability Insurance ("SSDI") benefits in most cases meet the definition of disability under the Fair Housing Act, although the converse may not be true. *See e.g., Cleveland v. Policy Management Systems Corp.*, 526 U.S. 795, 797 (1999)

medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may also provide verification of a disability. In most cases, an individual's medical records or detailed information about the nature of a person's disability is not necessary for this inquiry.

Once a housing provider has established that a person meets the Act's definition of disability, the provider's request for documentation should seek only the information that is necessary to evaluate if the reasonable accommodation is needed because of a disability. Such information must be kept confidential and must not be shared with other persons unless they need the information to make or assess a decision to grant or deny a reasonable accommodation request or unless disclosure is required by law (*e.g.*, a court-issued subpoena requiring disclosure).

19. If a person believes she has been unlawfully denied a reasonable accommodation, what should that person do if she wishes to challenge that denial under the Act?

When a person with a disability believes that she has been subjected to a discriminatory housing practice, including a provider's wrongful denial of a request for reasonable accommodation, she may file a complaint with HUD within one year after the alleged denial or may file a lawsuit in federal district court within two years of the alleged denial. If a complaint is filed with HUD, HUD will investigate the complaint at no cost to the person with a disability.

There are several ways that a person may file a complaint with HUD:

- By placing a toll-free call to 1-800-669-9777 or TTY 1-800-927-9275;
- By completing the "on-line" complaint form available on the HUD internet site: <http://www.hud.gov>; or
- By mailing a completed complaint form or letter to:

Office of Fair Housing and Equal Opportunity
Department of Housing & Urban Development
451 Seventh Street, S.W., Room 5204
Washington, DC 20410-2000

(noting that SSDI provides benefits to a person with a disability so severe that she is unable to do her previous work and cannot engage in any other kind of substantial gainful work whereas a person pursuing an action for disability discrimination under the Americans with Disabilities Act may state a claim that "with a reasonable accommodation" she could perform the essential functions of the job).

Upon request, HUD will provide printed materials in alternate formats (large print, audio tapes, or Braille) and provide complainants with assistance in reading and completing forms.

The Civil Rights Division of the Justice Department brings lawsuits in federal courts across the country to end discriminatory practices and to seek monetary and other relief for individuals whose rights under the Fair Housing Act have been violated. The Civil Rights Division initiates lawsuits when it has reason to believe that a person or entity is involved in a "pattern or practice" of discrimination or when there has been a denial of rights to a group of persons that raises an issue of general public importance. The Division also participates as *amicus curiae* in federal court cases that raise important legal questions involving the application and/or interpretation of the Act. To alert the Justice Department to matters involving a pattern or practice of discrimination, matters involving the denial of rights to groups of persons, or lawsuits raising issues that may be appropriate for *amicus* participation, contact:

U.S. Department of Justice
Civil Rights Division
Housing and Civil Enforcement Section – G St.
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

For more information on the types of housing discrimination cases handled by the Civil Rights Division, please refer to the Housing and Civil Enforcement Section's website at <http://www.usdoj.gov/crt/housing/hcehome.html>.

A HUD or Department of Justice decision not to proceed with a Fair Housing Act matter does not foreclose private plaintiffs from pursuing a private lawsuit. However, litigation can be an expensive, time-consuming, and uncertain process for all parties. HUD and the Department of Justice encourage parties to Fair Housing Act disputes to explore all reasonable alternatives to litigation, including alternative dispute resolution procedures, such as mediation. HUD attempts to conciliate all Fair Housing Act complaints. In addition, it is the Department of Justice's policy to offer prospective defendants the opportunity to engage in pre-suit settlement negotiations, except in the most unusual circumstances.

EXHIBIT D

Public Comments



Project Notice

Date Created: August 4, 2021

An application has been filed with County Planning

PROJECT NUMBER: PRAR-2021-00001
ASSESSOR PARCEL NO: 0315-521-26
APPLICANT: Noune Somokranian
LOCATION: 1308 SHADOWHILL CT.
 BIG BEAR CITY, CA 92314
COMMUNITY: Big Bear / District 3
 Single Residential – Minimum 1
 acre (RS-1)
ZONING:

Project Proposal

MAJOR REASONABLE ACCOMMODATION REQUEST FOR A DISABLED PERSON TO HAVE A WROUGHT IRON & PILASTER FENCE 6 FEET HIGH IN THE FRONT YARD SETBACK IN LIEU OF THE ALLOWED 4 FEET AND 8 FEET HIGH IN THE REAR AND SIDE YARD SETBACKS IN LIEU OF THE ALLOWED 6 FEET ON A ONE ACRE PARCEL.

We'd love to hear from you....

Please submit comments by August 17, 2021 to be sure that they get considered in the review process. However, comments will be taken up to the time of the project decision. Please refer to this project by the Project Number and the Assessor Parcel Number (APN). If you have no comment, a reply is not necessary.

Name:

E-mail Address:

Mailing Address:

Proposed Project Site



Irene Romero, Planner

Phone: 909.601.4726

E-mail: Irene.Romero@lus.sbcounty.gov

Fax: 760.995.5140

Project Decision

If you would like to be notified of the decision rendered for this project, please provide your contact information in the section below and mail this notice back to one of the addresses listed below.

From: [Romero, Irene](#)
To: [Vincent Eckles](#)
Cc: [Linda Woll](#); [Garylaurasmith Smith](#); [Rob Peterson](#); [Joel Klein](#); [James Miller](#); [Romero, Irene](#)
Subject: RE: Project Number PRAR-2021-0001 Assessor Number 0315-521-26 1308 Shadow Hill Court
Date: Thursday, September 2, 2021 11:13:14 AM

Hello Vincent,

A public hearing notice was sent on 09/01/21 (via USPS) providing information that the Zoning Administrator of the County of San Bernardino, at its regular meeting on Thursday, September 16, 2021, will conduct a public hearing to consider the above referenced application.

I will inform all if there are any changes to the above meeting date.

Please let me know if you have any questions.

Thank you,

Irene Romero
Planner II
Land Use Services Department
Phone: 760-995-8172
Cell: 909-601-4726
385 N. Arrowhead Ave. 1st floor
San Bernardino, CA, 92415

Our job is to create a county in which those who reside and invest can prosper and achieve well-being.
www.SBCounty.gov

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

From: Vincent Eckles <vincent.eckles@gmail.com>
Sent: Tuesday, August 31, 2021 12:13 PM
To: Romero, Irene <Irene.Romero@lus.sbcounty.gov>
Cc: Linda Woll <pineconenut@msn.com>; Garylaurasmith Smith <smithranch@verizon.net>; Rob Peterson <robhpeterson@gmail.com>; Joel Klein <joelandtova@sbcglobal.net>; James Miller <jjmillerbbl@gmail.com>
Subject: Project Number PRAR-2021-0001 Assessor Number 0315-521-26 1308 Shadow Hill Court

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you can confirm the sender and know the content is safe.

Hi Ms. Romero,

We just wanted to see if you had an update on where matters stand with the accommodation being sought for the wall/fence and if it is going to be denied or approved. The structure continues to sit in an almost finished and unpermitted state for going on 8 months now, including construction materials/debris for it spread throughout out the project. We continue to assert our previous concerns that that wall/fence is not being built to code and poses

significant life safety and property damage issues. Further, there has been no approval of the wall/fence structure under the CC&Rs for Meadowbrook Estates.

Best regards,
Vince and Jean Eckles
626 590-7348

Best regards,
Vince and Jean Eckles

Begin forwarded message:

From: Vincent Eckles <vincent.eckles@gmail.com>

Subject: Project Number PRAR-2021-0001 Assessor Number 0315-521-26

Date: August 10, 2021 at 8:30:42 PM PDT

To: "Romero, Irene" <Irene.Romero@lus.sbcounty.gov>

Cc: Garylaurasmith Smith <smithranch@verizon.net>, Rob Peterson <robhpeterson@gmail.com>, Linda Woll <pineconenut@msn.com>, Joel Klein <joelandtova@sbcglobal.net>, James Miller <jjmillerbbl@gmail.com>

Hi Irene,

Please see the attached letter providing our comments regarding the major accommodation being sought for 1308 Shadowhill Ct., Big Bear City. As our letter details, we continue to oppose the accommodation and request that the County reject it accordingly.

Best regards,
Vince and Jean Eckles
626 590-7348

Vincent & Jean Eckles
1300 Shadowhill Court
Big Bear City, CA 92314
vincent.eckles@gmail.com
(626) 590-7348

August 10, 2021

(Sent via email to Irene.Romero@lus.sbcounty.gov)

San Bernardino County Land Use Services – Planning
385 N. Arrowhead Avenue, First Floor
San Bernardino, CA 92415-0187
Attention: Ms. Irene Romero

RE: Project Number: PRAR-2021-00001
Assessor Parcel Number: 0315-521-26
Location: 1308 Shadowhill Court
Big Bear City, CA 92314

Dear Ms. Romero:

We are the adjacent property owners immediately to the west of 1308 Shadowhill Court, Big Bear City. On August 6, 2021, we received a Project Notice regarding an application being filed with County Planning for a “MAJOR REASONABLE ACCOMMODATION REQUEST FOR A DISABLED PERSON TO HAVE A WROUGHT IRON & PILASTER FENCE 6 FEET HIGH IN THE FRONT YARD SETBACK IN LIEU OF THE ALLOWED 4 FEET AND 8 FEET HIGH IN THE REAR AND SIDE YARD SETBACKS IN LIEU OF THE ALLOWED 6 FEET ON A ONE ACRE PARCEL.” We are opposed to this major reasonable accommodation request and ask that the County reject it. Our comments for why the County should deny the major reasonable accommodation request will be discussed in detail in this letter. Also, we refer you to the various correspondences that we have previously sent to you on this matter along with the numerous communications, including a May 1, 2021 letter with photographs from us along with separate comments in the form of letters and emails from multiple neighbors to Mr. Oxso Shahriari with San Bernardino County Land Use Services – Planning regarding opposition to the variance being sought for this same wall/fence structure that is now being characterized as a major reasonable accommodation request. The project number file for the previously requested variance, which we understand was withdrawn by the applicant, was PVAR-2021-00019.

The first and foremost reason why the County should deny the applicant’s request is that by the County allowing the wall/fence to be constructed in its present state creates a **major life-safety issue** for not only us and our family and friends, but the applicant’s family and friends along with any other persons that may happen to be driving, walking,

running, or biking on Shadowhill Court. Due to the number, size, and especially height of the columns, visibility is obscured for drivers in vehicles, pedestrians walking, and bike riders to know if vehicles from the applicant's property are pulling out of the driveway or pedestrians are leaving the property. Further, from the standpoint of the applicant and any other individuals using the applicant's property, their vision is also obscured by the number, size, and especially height of the columns when they leave their property to know whether there are pedestrians, cars, or bikes that may be in the street. The wall/fence had been almost completely constructed prior to the owner applying for the permit, giving us the opportunity to observe the present danger that exists. As an example, we had this very danger made clear to us several weeks ago while on our daily walk. The applicant was having a delivery of materials made to their property for an addition that had not received a permit yet. While approaching the applicant's driveway, we heard a forklift backing out after dropping off some materials. The forklift operator did not see us, as his view was blocked by the columns, limiting the driver's ability to see pedestrians walking along the road or even vehicles driving on the road. Fortunately, we had the foresight to stop prior to the driveway and wait until the forklift operator completely left the driveway. If we had not, one of us would likely have been hit or had to jump out of the way.

The other aspect with the number, size, and height of the columns is that they present a danger to us in our egress from our property, as we cannot see certain oncoming vehicles. Though the flow of traffic around the street allows us to see most oncoming vehicles, certain vehicles such as mail delivery vehicles and snow plows go in the opposite direction to the normal traffic pattern. As such, we need to look right when leaving our property. With the number, size, and height of the columns, our view of vehicles coming the opposite way of the normal traffic direction is obstructed. This would also be the same case with any pedestrians or bikes that utilize our street.

With the major life-safety issue that will be in effect, if the accommodation is granted, this will far outweigh the benefit, if any, that a disabled person may derive from it. In addition, by the County granting this accommodation they would be on notice of a major life-safety issue exposing them to potential liability and possible damages if someone is hurt or killed. If it was a catastrophic injury or death, then the deep pockets a plaintiff's attorney would go after is the County's, as the applicant would simply say the County approved it.

In speaking with Mr. Shahriari about the variance request prior to it being withdrawn, he advised that the applicant can proceed with another alternative and build essentially the same wall/fence structure that will accomplish the same purpose if they do so at a 25 foot front setback and a 15 foot side and rear setback. (This would still be subject to review and approval by the Meadowbrook Estates Architectural Control Committee per the CC&Rs.) According to Mr. Shahriari, the applicant would still have use of approximately 70% of their property within that set back wall/fence. We would have no objection to the wall fence being built at the 25/15 setbacks, subject to the approval per the CC&Rs, as this would then completely be to code. It is our understanding that the applicant likely does not want to proceed this way, as the wall/fence structure is a

majority completed. (Please see the photographs that we included with our May 1, 2021 letter. Also, further work has been done on the wall/fence structure since then and we can provide you additional photographs if you like.)

The applicant seems to keep changing their narrative on the wall/fence structure to take a backdoor approach in getting a permit after the fact. The construction of the wall/fence commenced in January 2021 with the applicant's contractor demolishing the old fence and excavation for the new fence. Interestingly, though the contractor is apparently licensed, they did not call DigAlert to locate the underground utilities even though they were excavating in close proximity to them. In speaking with the contractor he advised us that they did not have permit, but instead three engineers drew up the plans for the wall/fence. We did express our concern about the wall/fence in that it did not seem to be to code. Subsequently, in March we met with the owner/applicant to discuss issues we were having with encroachment of the wall/fence over the property line, trespass by their contractor, and damage done to our property by their contractor. We inquired then about a permit and the owner implied they had one. We questioned if the height of the wall/fence was to code and whether they had a variance, which he advised they did not, which made us question whether they had a permit or not. **The owner advised the reason for the height was due to the fact that their family was "afraid of bears."** We thought this to be somewhat comical, since they bought this home in "Big Bear" and bears can easily climb a wall/fence that was either 6 feet or 8 feet in height.

Shortly, after our meeting with the owner, we contacted code enforcement to determine whether there was a permit on file and were advised that there was not one. We subsequently filed a complaint about such. We understand that shortly after our complaint was filed, the owner applied for a permit, which was apparently denied based on the plans as submitted. The owner then sought a variance for the 6 feet height in front and 8 feet side and rear. **We were told that the apparent reason for variance was that the owner would have in-laws visiting the property and they were afraid of dogs.** We, along with multiple other neighbors, provided comments opposing the variance. According, to Mr. Shahriari the day before he was going to deny the variance request, the applicant advised that they would be withdrawing it in order to file a major reasonable accommodation request for medical reasons. **We were then advised that the owner's mother planned on living in the house and she had a fear of dogs** so they were seeking a medical accommodation. Clearly, the story keeps changing and it is clear that they are trying to fit a narrative so they can get the permit. When we met with the owner previously, he specifically stated that the home would be used as a family vacation home; no mention was made that the mother would be living at the property on a full-time bases. Also, it has been going on nine months since the property was purchased and no one is living there. (As an interesting aside to this, the owner and their contractor have been working inside the house and detached garage doing renovations, which we understand are also unpermitted. We have been advised by a neighbor that the owner is converting the detached garage to six bedrooms and six bathrooms.) Further, based on the age of the owner, we would assume that his mother is elderly. The house is located at just under 7,000 feet elevation. Unless someone has

lived here a good portion of their lives, elderly people moving to Big Bear have a difficult time. My mother when she was living could not handle the altitude nor could my spouse's mother. Also, a house on our street is owned by an elderly couple that only are here a day or two a year due to the altitude. In fact, when we first moved to Big Bear, we took over a lease from an individual that was not able to handle the altitude. Thus, this ploy that the mother will be living in the house is completely made up to try to backdoor the permit due to the wall/fence essentially being constructed and is inconsistent with any of the communications we had with the owner. We and the County both know what will happen if the accommodation is granted and the wall/fence is completed, the mother will simply change her mind about living here.

In the Project Proposal, we note the request is being made for a disabled person. However, this would not fall under the Americans with Disabilities Act to trigger any type of ADA requirement for the County to grant the accommodation. Though we understand that having a fear of something can be debilitating, it seems extreme to put this individual in the category of a disabled person for having a fear of dogs. It seems that building a wall/fence is not going to cure or even help that fear. What we find paradoxical with the wall/fence being constructed is that it is not solid. If the person truly has a fear of dogs, the mere sighting of a dog would trigger fear. Also, if the person is afraid of a dog jumping the wall/fence, why is the wall/fence only 6 feet high in front? Also, why is the wall/fence only 8 feet high on the sides and back? A quick Google search shows that dogs can climb fences that are up to 10 feet in height. Another fact that makes the mother's fear of dogs completely spurious is that when we met with the owner back in March, he was showing us pictures of his dogs, which were similar to German Shepherds. Further, after living in Big Bear for over eight years now, we can attest, as our neighbors can too, there are not roving packs of dogs or even stray dogs roaming the area.

A further reason the County should deny the accommodation is that it is not reasonable. This wall/fence structure that is being constructed is significant and cannot easily be removed. It is one thing if access is needed for a wheelchair and a ramp is built. However, this wall/fence is something that cannot and will not easily be removed and affects the entire neighborhood along with Big Bear as a whole. In the Meadowbrook Estates neighborhood that we live in, these are one acre plus lots that have fences mostly out of wood in the front and chainlink on the back and sides and comply with County codes. This wall/fence structure being built does not fit into the area due to its size and there are not other wall/fences like it in the area. We moved to Big Bear to get away from the Orange County and San Fernando Valley look and it should be kept as mountain aesthetics. As for Big Bear as a whole, the wall/fence that has been constructed does not fit in at all. If the County allows it, then we foresee others building the same thing or something taller, as a precedent has now been set. This is why we think it is important for other neighbors within Meadowbrook Estates to respond to the Project Notice too and provide their comments, as this affects them also.

As for precedent to deny by the County and be consistent, several years ago a owner and their out-of-county contractor on the street behind us, Heritage Trail, attempted to

also build a wall/fence structure that was over the allowed height in the front and side setbacks. After filing a complaint with the County, the owner and their contractor lowered the height of the wall/fence structure to that prescribed by the code from the original 6 feet plus height.

As mentioned earlier in this letter, Meadowbrook Estates has CC&Rs. These control what is built and there must be prior approval. In communications that we have had with the Meadowbrook Estates Architectural Control Committee, we were advised that the current wall/fence structure was not submitted to them for approval prior to building. Further, the Committee would not approve the structure as currently built and have had both telephone and letter communications with the owner about such. We have copied the Committee on this letter to your and it is our understanding that the Committee plans on providing the County with their comments directly.

Finally, we note that the Project Proposal does not mention anything about the lights that are being incorporated in the wall/fence structure. For what has been constructed to date, each and every column on the front elevation has a light fixture installed, meaning that there are 18 lights on the 18 columns. For the east side elevation, there are 12 columns, each with a light. On the west side elevation there are so far 7 columns, each with a light. The lights are a two-bulb fixture. We can see that the owner has already run wiring and junction boxes for lights on the yet-to-be-constructed portions of the fence, suggesting that there is also a plan to have lights on those areas of the fence. Again, most people move to Big Bear to escape the light pollution in the city and to enjoy the night environment found here. We question if the 37 lights that are on the columns are to code and request that this also be reviewed as part of the applicant's major reasonable accommodation request for a fear of dogs.

We again reiterate our opposition to the major reasonable accommodation request and would request that the County deny it. Please let us know if you have any questions or additional information that we can provide. We would appreciate being apprised on matters.

Sincerely,

Two handwritten signatures in blue ink. The first signature is a stylized, cursive name, likely Vincent Eckles. The second signature is a more legible cursive name, likely Jean Eckles.

Vincent & Jean Eckles

cc: Interested Neighbors
Meadowbrook Estates Architectural Control Committee

From: [Vincent Eckles](#)
To: [Romero, Irene](#)
Cc: [Linda Woll](#); [Joel Klein](#); [Rob Peterson](#); [Garylaurasmith Smith](#)
Subject: Re: (NEW) PROJECT NUMBER FOR REASONABLE ACCOMMODATION REQUEST: PMISC-2021-00011 / (OLD) Project Number PAVR-2021-00019 Assessor Number 0315-521-26
Date: Friday, August 6, 2021 2:58:32 PM
Attachments: [SBCO Project Notice \(rcvd 8-6-21\).pdf](#)

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you can confirm the sender and know the content is safe.

Hi Ms. Romero,

In today's mail, we received the attached Project Notice, which we will be responding to it accordingly again stating our opposition to the already constructed wall/fence and including further objections beyond what was previously provided to San Bernardino County. In order to assist in detailing our objections, can you provide further information, including details on the "request for a disabled person to have a wrought iron and pilaster fence . . ." In my understanding of ADA, this would not fall under that act. It continues to not make sense why a disabled person would not this type of major reasonable accommodation if there is truly what we have been told a "fear of dogs", especially given the fact that the owner of the property has german shepherd type dogs. Also, of note in the Project Notice and request, no mention is made of the number of light fixtures that are being included on each of the pilasters and other areas illuminating the wrought iron fence.

Best regards,
Vince and Jean Eckles
626 590-7348

From: [Vincent Eckles](#)
To: [Romero, Irene](#)
Cc: [Linda Woll](#); [Joel Klein](#); [Rob Peterson](#); [Garylaurasmith Smith](#)
Subject: Re: (NEW) PROJECT NUMBER FOR REASONABLE ACCOMMODATION REQUEST: PMISC-2021-00011 / (OLD) Project Number PAVR-2021-00019 Assessor Number 0315-521-26
Date: Tuesday, August 3, 2021 11:23:37 AM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you can confirm the sender and know the content is safe.

Hi Ms. Romero,

Thank you for the update and we will await the project notice. I did file another complaint with Code Enforcement today about the dangerous situation with the electrical outlet. Unfortunately, my previous complaints that have been filed, including the concern about the unpermitted work and unsafework work, debris blowing from the property through the neighborhood, etc., have not resulted in any action to date.

We really would like some resolution on this soon. Construction on this wall/fence initial started in January with the majority of it being completed even before the property owner/contractor applied for a permit. The only reason they applied for the permit is that we inquired about such with them along with reporting it to the County, as our understanding of our CC&Rs and researching the San Bernardino County building code requirements did not allow a structure of such as they were building to be constructed. Unfortunately, the wall/fence continues to sit uncompleted and debris continues to be left throughout their property distracting from our property and other properties in the neighborhood and creating an eyesore.

We again ask that the request being made for the major accomodation be rejected and the property owner and their contractor be required to tear the current structure down and build it to code, including going through the required inspections to make sure that it is being built to code.

Best regards,
Vince and Jean Eckles
626 590-7348

On Aug 3, 2021, at 10:36 AM, Romero, Irene <Irene.Romero@lus.sbcounty.gov> wrote:

Hello All,

Thank you for the follow-up emails. They will be included in the project records.

Once the Reasonable Accommodation Request (related to the wall/fence height) is accepted as complete, a Project Notice will be sent out to contiguous (surrounding) property owners. This will be completed this week.

Regarding the noted concerns about unpermitted structures (not related to the Reasonable Accommodation Req), you can report possible violations to Code Enforcement. Please see the following link for contact/reporting options: <http://cms.sbcounty.gov/lus/CodeEnforcement/CodeEnforcementHome.aspx>. If you have any issues, please let me know. I am happy to help!

Thank you,

Irene Romero

Planner II
Land Use Services Department
Phone: 760-995-8172
Cell: 909-601-4726
385 N. Arrowhead Ave. 1st floor
San Bernardino, CA, 92415
[<image001.png>](#)

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www.SBCounty.gov

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From: Linda Woll <pineconenut@msn.com>
Sent: Tuesday, August 3, 2021 9:49 AM
To: Vincent Eckles <vincent.eckles@gmail.com>; Romero, Irene <Irene.Romero@lus.sbcounty.gov>
Cc: Joel Klein <joelandtova@sbcglobal.net>; Rob Peterson <robhpeterson@gmail.com>; Garylaurasmith Smith <smithranch@verizon.net>
Subject: Re: (NEW) PROJECT NUMBER FOR REASONABLE ACCOMMODATION REQUEST: PMISC-2021-00011 / (OLD) Project Number PAVR-2021-00019 Assessor Number 0315-521-26

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Good morning me Romero,

We are also checking in for an update on this property 1308 Shadow Hill court, big bear city and to also re state that we are still opposing this major accommodation on the already constructed wall/fence.

Looking forward to hearing from you!

From: [Vincent Eckles](#)
To: [Romero, Irene](#)
Cc: [Linda Woll](#); [Joel Klein](#); [Rob Peterson](#); [Garylaurasmith Smith](#)
Subject: Re: (NEW) PROJECT NUMBER FOR REASONABLE ACCOMMODATION REQUEST: PMISC-2021-00011 / (OLD) Project Number PAVR-2021-00019 Assessor Number 0315-521-26
Date: Monday, August 2, 2021 11:20:02 AM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you can confirm the sender and know the content is safe.

Hi Ms. Romero,

We just wanted to check in with you see if there is any update on the major accommodation being sought for the wall/fence at 1308 Shadowhill Ct, Big Bear City. We continue to oppose any variance or accommodation being sought based on our past communications to San Bernardino County. We also remain concerned about the unpermitted structure that is still in place, as it is essentially complete, but there has been no inspections made by Building & Safety to determine if it is to code and that it won't fall over or start a fire. Attached is photo that I recently took during a rainstorm showing the temporary power set-up that is being used to construct the wall/fence. This demonstrates our and our neighbors' ongoing concern regarding this project in that it has not been built to code.

We look forward to hearing from you.

Best regards,
Vince and Jean Eckles
626 590-7348



LEFT INTENTIONALLY BLANK

From: [Romero, Irene](#)
To: [Linda Woll](#)
Cc: [Vincent Eckles](#); smithranch@verizon.net; [Joel R Klein](#); robhpeterson@gmail.com; [Romero, Irene](#)
Subject: RE: Project Number PRAR-2021-0001 Assessor Number 0315-521-26
Date: Thursday, September 2, 2021 11:11:38 AM
Attachments: [image001.png](#)

Hello Linda,

A public hearing notice was sent on 09/01/21 (via USPS) providing information that the Zoning Administrator of the County of San Bernardino, at its regular meeting on Thursday, September 16, 2021, will conduct a public hearing to consider the above referenced application.

I will inform all if there are any changes to the above meeting date.

Please let me know if you have any questions.

Thank you,

Irene Romero
Planner II
Land Use Services Department
Phone: 760-995-8172
Cell: 909-601-4726
385 N. Arrowhead Ave. 1st floor
San Bernardino, CA, 92415



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From: Linda Woll <pineconenut@msn.com>
Sent: Tuesday, August 31, 2021 12:12 PM
To: Romero, Irene <Irene.Romero@lus.sbcounty.gov>
Cc: Vincent Eckles <vincent.eckles@gmail.com>; smithranch@verizon.net; Joel R Klein <joelandtova@sbcglobal.net>; robhpeterson@gmail.com
Subject: Project Number PRAR-2021-0001 Assessor Number 0315-521-26

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Good morning Irene

We are following up on this project at 1308 Shadowhill court. The major accommodation that has applied for. We have have not heard anything on this in quite a while. Hoping to hear that you have rejected this project and hope to see it being torn down accordingly.

Looking forward to hearing from you on this matter.

Daniel and Linda Woll
760-954-5858

From: [Linda Woll](#)
To: [Romero, Irene](#); [Rob Peterson](#)
Cc: [Vincent Eckles](#); smithranch@verizon.net; [Romero, Irene](#)
Subject: Re: Project Number PRAR-2021-00001
Date: Tuesday, August 10, 2021 10:14:49 AM
Attachments: [image001.png](#)

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August 10, 2021

Regarding: Project Number: PRAR-2021-00001
Assessor Parcel Number: 0315-521-26
1308 Shadowhill ct, Big Bear City, CA 92314
Major Reasonable accommodation fence project

Hello Ms Romero

We are following up with our previous objection letters on file included in previous project PAVR-2021-00019. and are continuing in our objections to the wall/fence project that has been illegally built on this property now that they have submitted a major reasonable accommodation request. First of all there is nothing reasonable about this request. The reasonable option would be to move the fence back to the required set back per code for the fence/wall of the heights requested in the accommodation.

As a general contractor in the state of California for over 30 years I have never seen such a ridiculous request for the reason of extreme fear of dogs etc. We live in an area with wildlife and residents with dogs and pets. This property owner should have done their due diligence before purchasing anything in Big Bear especially this area in how close we live to the national forest if they are that concerned or afraid. This is part of the beauty of why we purchased here in 2008. We had also previously owned another home nearby which backs to the forest and also still own 2 lots adjacent to the forest. As previously stated by Mr Eckles and Mr Peterson this does not seem to qualify under the ADA.

The only reason this property owner even requested a permit is because they were reported to code enforcement. They have shown all along they do not like to follow rules and regulations. As stated by Mr. Eckles they also do not have permission from our Meadowbrook architectural committee to build this

fence/wall.

So in conclusion, the appropriate thing to do is to remove this illegally built fence/wall and be re-constructed at the requested height at the setback of 25 ft or remove and re-construct the fence/wall at the proper heights of 4ft in front and 6 ft in back according to the current code in the located they are at now. Not the over 6ft and over 8ft this fence/wall stands at currently. Either way the current construction needs to be torn down because it was not inspected for electrical or footings. This whole process on this project has gone on since January which is way too long. Looking forward to the proper conclusion in this matter that is fair to all the residents who have followed the codes, rules etc.

Thank you for your consideration and feel free to contact us if you have any further questions,

Daniel & Linda Woll

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F

From: [Linda Woll](#)
To: [Vincent Eckles](#); [Romero, Irene](#)
Cc: [Joel Klein](#); [Rob Peterson](#); [Garylaurasmith Smith](#)
Subject: Re: (NEW) PROJECT NUMBER FOR REASONABLE ACCOMMODATION REQUEST: PMISC-2021-00011 / (OLD)
Project Number PAVR-2021-00019 Assessor Number 0315-521-26
Date: Tuesday, August 3, 2021 9:49:05 AM

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Good morning me Romero,

We are also checking in for an update on this property 1308 Shadow Hill court, big bear city and to also re state that we are still opposing this major accommodation on the already constructed wall/fence.

Looking forward to hearing from you!

Daniel and Linda Woll
760-954-5858

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Property Owner of 1116 Heritage Trail, Big Bear City.

Mail address: 26 Aloysia, Rancho Santa Margarita, CA 92688

Email address: robhpeterson@gmail.com

Phone 949-322-6426

August 8, 2021

San Bernardino County Land Use Services

385 N. Arrowhead Ave

San Bernardino, CA 92415

Regarding: Project Number: PRAR-2021-00001

Assessor Parcel Number: 0315-521-26

Dear Irene Romero –

I am communicating to you regarding project number PRAR-2021-00001, assessor number 0315-521-26, the requested major reasonable accommodation request for 1308 Shadowhill Ct., Big Bear City.

This letter is intended to provide a response to the request for a major reasonable accommodation request regarding the fence heights at the property above. First, thank you for the opportunity to provide input into the variance decision.

I have owned the property at 1116 Heritage Trail for over 5 years, and greatly enjoy the beauty of the mountains and the many fine looking properties that surround us.

I am opposed to the major reasonable accommodation request for 6 foot fences in the front yard and 8 foot fences in the rear.

I have provided two previous responses to the variance request at this property, which should be included in project number PAVR-2021-00019.

Now that the owners have submitted a major reasonable accommodation request for the property, I provide the following further information regarding my opposition.

As previously shared, the accommodation would provide safety issues in the neighborhood and would have a negative impact on the neighborhood aesthetics.

The ADA and other government regulations concerning American's with disabilities, is intended to insure that persons with disabilities have equal opportunity to use and enjoy a dwelling. However, it does not grant them greater opportunities that a non-disabled person has. This request would allow the home owners to build tall fences that are not allowed per county code which all home owners have to comply with. In a sense, this request would grant the property owners special privileges that are not allowed to other property owners – this is not a reasonable request.

When a reasonable accommodation request is made, there should be a review of alternative accommodations. In this case, an alternative accommodation would be to build the six foot fence in the front at the required set back per regulation (I believe it is 20 feet). This is within the county regulations and since the property is one full acre, the owners would still have significant space to enjoy the dwelling. The same logic should be applied to the rear fence. This would allow the property owners to have the fence height that they deem necessary, comply with current county regulations and not have a negative impact on the surrounding community.

Thank you for taking the time to read my input on the request and again recommend against the approval of the request as it is not reasonable.

Let me know if you have any questions and I do request that I be notified of the outcome.

Sincerely,

Robert Peterson

From: [Romero, Irene](#)
To: [James Miller](#)
Cc: [Keenan Warner](#); [Bob Holstrom HOA](#); [Romero, Irene](#)
Subject: RE: Project Number PRAR-2021-0001 Assessor Number 0315-521-26 1308 Shadow Hill Court
Date: Friday, August 13, 2021 10:32:22 AM
Attachments: [image001.png](#)

Hello Jim,

Thank you for the below comments. I will include the information as part of the project file.

Feel free to contact me if you have any questions. Have a nice day!

Thank you,

Irene Romero
Planner II
Land Use Services Department
Phone: 760-995-8172
Cell: 909-601-4726
385 N. Arrowhead Ave. 1st floor
San Bernardino, CA, 92415



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From: James Miller <jjmillerbbl@gmail.com>
Sent: Thursday, August 12, 2021 3:35 PM
To: Romero, Irene <Irene.Romero@lus.sbcounty.gov>
Cc: Keenan Warner <ucla4kw@yahoo.com>; Bob Holstrom HOA <BHolstromHTC@outlook.com>
Subject: Project Number PRAR-2021-0001 Assessor Number 0315-521-26 1308 Shadow Hill Court

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Ms. Romero, I represent the Meadowbrook Estates Homeowners Association Architectural Committee and have been asked to advise you of the CC&R requirements pertaining to the variance requested for the perimeter fence at 1308 Shadow Hill Crt. Big Bear City, Ca 92314. Please be aware that the Committee has a policy of not approving any fence over 4 feet tall that is within the required front yard setback recorded in the CC&R's which is typically 75 feet; and the rear fence, which should not extend any further than the front face of the residence, is limited to 6 feet. In addition the construction of any perimeter fence within the subdivision requires review by the

Committee and no application for a perimeter fence has been received for the subject property.
Thank you.

Jim Miller
(909) 353-9962

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From: [Romero, Irene](#)
To: [Garylaurasmith Smith](#)
Cc: [Romero, Irene](#)
Subject: RE: Project Number PRAR-2021-00001 Assessor Number 0315-521-26
Date: Monday, August 16, 2021 5:51:16 PM
Attachments: [Variance Opposition Letter.doc](#)
[image001.png](#)

Thank you for the below comments and attached letter. I will include the information as part of the project file.

Feel free to contact me if you have any questions. Have a nice day!

Thank you,

Irene Romero
Planner II
Land Use Services Department
Phone: 760-995-8172
Cell: 909-601-4726
385 N. Arrowhead Ave. 1st floor
San Bernardino, CA, 92415



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From: Garylaurasmith Smith <smithranch@verizon.net>
Sent: Monday, August 16, 2021 12:40 PM
To: Romero, Irene <Irene.Romero@lus.sbcounty.gov>
Subject: Project Number PRAR-2021-00001 Assessor Number 0315-521-26

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Ms. Romero,

My wife and I have just finished our newly constructed home directly across the street from the project in question. Our address is 1305 Shadowhill Court. We will be receiving our final inspection and certificate of occupancy very soon. We are strongly opposed to any variance or reasonable accommodation for the nearly completed, illegally constructed, and non approved or permitted fencing/barricade at the concerned address. I have also attached my first letter in opposition to the variance previously sought by the applicants. Please submit and acknowledge the entry of both this e-mail and the attached letter into the review process.

It is my understanding that the applicant has claimed that the wall/barricade is required due to a family members medical disability of extreme fear of dogs. My wife and I are very sympathetic to medical issues as parents of a daughter who had a peach sized brain tumor and has had four major brain surgeries in the past 18 months. A fear of dogs does not constitute a medical disability nor the need for walls/barricades taller than county and association standards on the perimeter of a one acre parcel. On a one acre parcel there is plenty of space to build interior walls for a safe haven and still be able to enjoy the beautiful scenery and outdoor activities provided by the scenic Big Bear area without ruining natural beauty and rural setting of the neighborhood. Additionally, I was told by the applicant that this is not going to be a full time residence for the applicant and certainly not for the newly introduced family member with the phobia. This family members fear only surfaced after the illegally, non-permitted and non-approved walls were built and then construction was halted by the county due to complaints by numerous members of the community. The applicant also started a massive remodel at the same time without permits which I believe they now have permits for. These are individuals with an obvious utter disregard for policies and procedures that we all are required to follow for the safety of themselves and everyone in the community.

If the applicant was so concerned with accommodating their family members medical conditions they should have gone through the proper procedures (plan check, permits, association approval). I am sure the county would have suggested alternative proposals like interior property walls that would not ruin the aesthetics of the neighborhood. Instead they are 90% complete with the walls without association approval, without plans or plan check and no surveying to confirm property lines and set backs. As a general contractor for 35 years, I can tell you that this construction does not meet SB County Standards. The footings are too small and not deep enough, the extensive electrical is only six inches deep constituting a electrical hazard, and the excessive lighting on every post is not within county standards. The extensive illegal electrical is particular concerning to me. As a General contractor and retired LA City Fire Captain of 32 years I have seen hundreds of electrical fires over the years. The extensive illegal outdoor electrical was done by the masons, not electricians. With the current drought conditions in this Fire Safety Overlay Area (Big Bear mountains) a wild fire due to illegal electrical that the county was aware of could be devastating and catastrophic. Additionally, now that it is public record it is a huge liability for SB County. Even if the county approves the major reasonable accommodation requested, after proper inspection these walls should be torn down and rebuilt to code for the safety of the property owners, their family members and all in the community.

Please review my original letter that is attached and submit both the letter and this e-mail. If you could also acknowledge that both were submitted I would appreciate it. Thank you for the opportunity to express my concerns on this matter. If you have any question feel free to contact me and please notify me of the final results/decision.

Thank you,
Gary & Laura Smith
(951)440-6786
smithranch@verizon.net

In speaking with Mr. Shahriari, we understand that the applicant recently provided a request for an accommodation due to a medical/disability issue in that the in-laws of the owner have an extreme fear of dogs and this is why they need the wall/fence heights to the level being sought without setbacks. We find this somewhat head scratching on multiple accounts.

First and foremost, we have lived in Big Bear going on over eight years now and have never seen marauding packs of dogs either in our neighborhood, in our yard, or jumping our current 6-foot high chainlink fence in our backyard. Though we have a dog, which is a small size bull terrier, and have had other dogs in the past, two golden retrievers, none of these dogs could jump our 6-foot high chainlink fence and our current dog would not be able to jump even a 3-foot fence. Furthermore, in an early conversation with the new property owner, he specifically stated that the reason for the exceptionally high fence/wall was out of concern for bears getting on their property. They never once mentioned a concern about dogs. Finally, and which is the biggest disbelief we have regarding the "fear of dogs" accommodation, is that when we had a meeting with the property owner on 3/27/21 (after construction on the wall/fence was well underway and while meeting to discuss the ongoing trespass, encroachment, and damage to our property due to the wall/fence that was being built), the owner showed us multiple pictures of his own dogs, which we recall were some type of shepherd.

We appreciate both your and Mr. Shahriari's time and attention on this in keeping us apprised and consideration to our opposition.

Best regards,
Vince and Jean Eckles
626 590-7348

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From: [Romero, Irene](#)
To: [Mary Margedant](#)
Cc: [Romero, Irene](#)
Subject: RE: 1308 Shadowhill court Big Bear City
Date: Monday, August 23, 2021 2:58:55 PM
Attachments: [image002.png](#)

Hello Mary,

Thank you for the below comments. I will include the information as part of the project file.

Feel free to contact me if you have any questions. Have a nice day!

Thank you,

Irene Romero
Planner II
Land Use Services Department
Phone: 760-995-8172
Cell: 909-601-4726
385 N. Arrowhead Ave. 1st floor
San Bernardino, CA, 92415



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From: Mary Margedant <mary@loanfinderhomeloans.com>
Sent: Sunday, August 22, 2021 9:34 PM
To: Romero, Irene <Irene.Romero@lus.sbcounty.gov>
Subject: 1308 Shadowhill court Big Bear City

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My name is Mary Margedant. Our property is located at 1315 Shadow hill court. We have been out of town and just received your notice and so we could not respond before August 17th deadline. The property is located in a high fire zone. Since they have already build at a height not allowed by the building code and may have ran unpermitted electrical, please inspect it for safety.

If you have any questions, please call my on my personal cell at 562-712-9925



APPLY NOW

M Margedant

Mary Margedant | Broker

Direct mary@loanfinderhomeloans.com

20955 Pathfinder Road #100 Diamond Bar, CA 91765
Ph# 714-224-4980 | Fax # 714-224-4985

CO. NMLS: #311102 CA. Dept of R.E.: #01079981
Individual NMLS # 301736

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EXHIBIT E

Letter from Medical Doctor

Oxnard Medical Group Inc.

Family Practice & Internal Medicine
12511 Oxnard St. North Hollywood CA 91606
Tel: (818) 762-2084, Fax: (818) 762-2085
Dr. Amable R. Aguiluz Jr. MD

To Whom It May Concern:

██ has been under my care at Oxnard Medical clinic. ██████████ has severe anxiety disorder that was related to a dog attack in the past. Anxiety disorder refers to fear characterized by behavioral disturbances, excessive fear or worry in situations.

As a result, ██████████ intense fear for specific situation (in her case being bitten by an animal) is preventing her from going out of the house. This incident has caused severe trauma and currently in her condition, the smallest disturbance causes symptoms to appear related to her disorder. I have placed her on different anxiety medications, but the medications do not alleviate all the symptoms. Many episodes can be prevented or reduced in severity by reducing exposure to the cause of anxiety. That said, some anxiety episodes and complications are simply unpredictable, and so ██████████ is likely to encounter some anxiety.

Based on ██████████ medical conditions, it is essential that her family provide her with a sheltered home that is free from dogs of neighboring animals, provide shelter from cold weather, shelter from excessive heat and access to a medical center. Having appropriate security measures around her home decrease her chances of anxiety attacks and/or other symptoms related to her condition.

██████████ requires all these accommodations for her to be safe in her housing situation.

Please do not hesitate to give me a call regarding this matter if any additional documentation is needed.

Sincerely,



Dr. Amable Aguiluz Jr.

OXNARD MEDICAL GROUP INC
12511 OXNARD STREET
NORTH HOLLYWOOD CA 91606