

OC DEVELOPMENT SERVICES REPORT

DATE: July 20, 2023

TO: Orange County Zoning Administrator

FROM: OC Development Services / Planning Division

SUBJECT: Planning Application PA23-0004 for a Use Permit

PROPOSAL: The applicant is requesting a Use Permit for installation of a 10-foot-high chain-link fence and six (6) 12-foot high tennis court lights along the rear of the property located at 9342 Hillview Road Anaheim, CA 92804.

ZONING: R1 – “Single Family Residence” District

GENERAL PLAN: 1B “Suburban Residential”

LOCATION: The project is located at 9342 Hillview Road, Anaheim, CA 92804 within the Fourth (4th) Supervisorial District (APN: 127-121-05)

APPLICANT: Vu Truong, Property Owner
Darrell Peek, Agent

STAFF CONTACT: Cynthia Burgos, Contract Staff Planner
Phone: (714) 667-8898 E-mail: Cynthia.Burgos@ocpw.ocgov.com

RECOMMENDED ACTION(S):

OC Development Services/Planning recommends the:

1. Receive the staff report and public testimony as appropriate
2. Find that the proposed project is exempt from CEQA per Guidelines Section 15301 Class 1 exemption (Existing Facilities) provides for accessory structures and uses on the same site as the approved principal use.
3. Approve Planning Application PA23-0004 for a Use Permit subject to the Findings and Conditions of Approval provided as attachments #1 and #2 to this report.

BACKGROUND AND EXISTING CONDITIONS:

The subject property, Section 18 of Township 4 (9342 Hillview Road, Anaheim), is located within the unincorporated community of Anaheim in the County of Orange. The property is zoned R1 “Single Family Residence” District. The subject site is a rectangular shaped lot and flat in topography. The lot is 30,400 square feet in size and has a width of 160 feet and a depth of 189 feet. The property faces Hillview Road and has an existing 3,986 square foot two-story dwelling.

Proposed Project

The applicant is requesting a Use Permit for installation of a 10-foot-high chain-link fence and six (6) 12-foot high tennis court lights along the rear of the property. Per Section 7-9-116.1(e) of the County of Orange Zoning Code no over height structures are permitted within the setback areas unless approved by the Zoning Administrator.

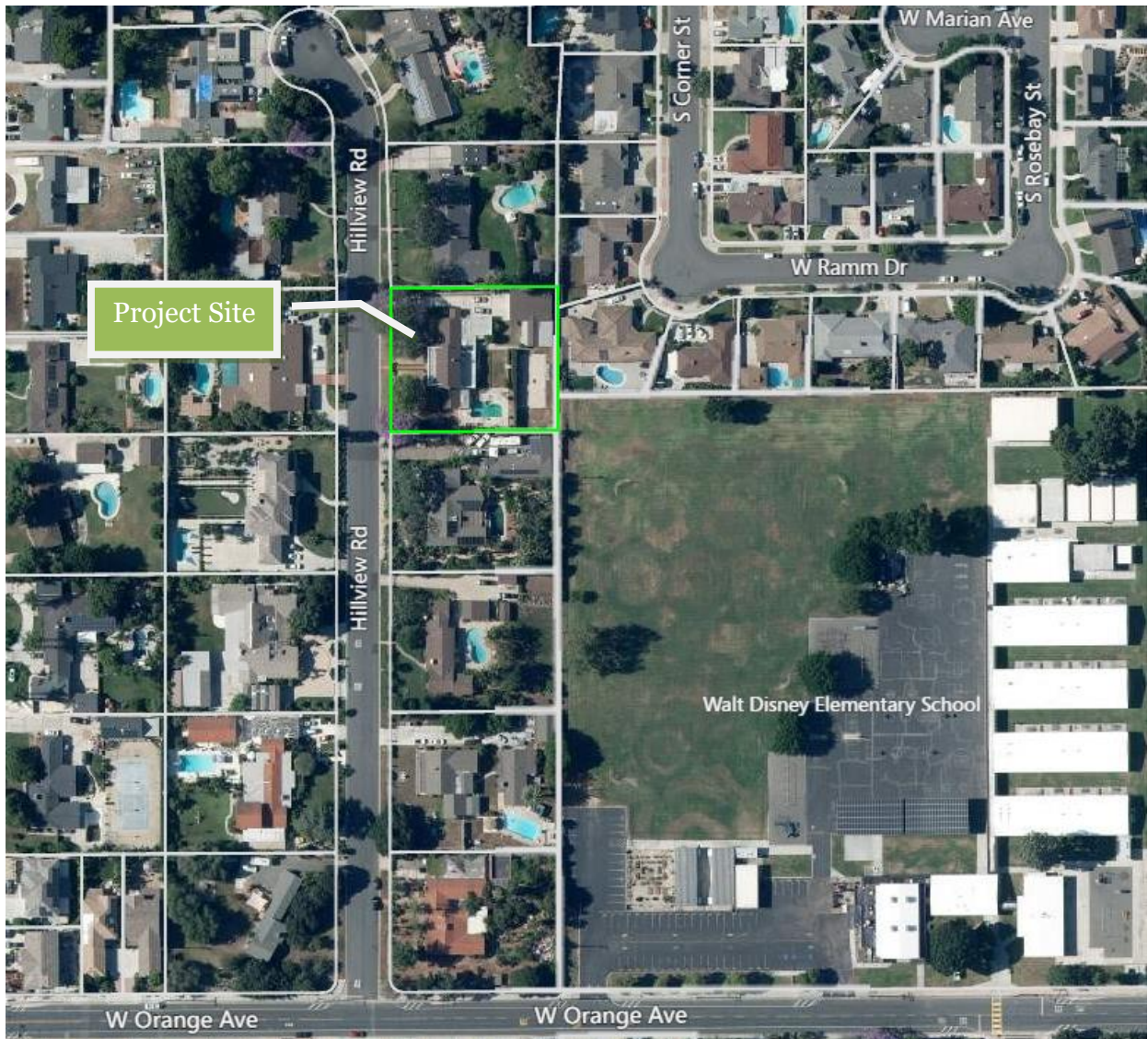
SURROUNDING LAND USES:

Zoning and existing land uses for the project site and for other surrounding properties beyond are as follows.

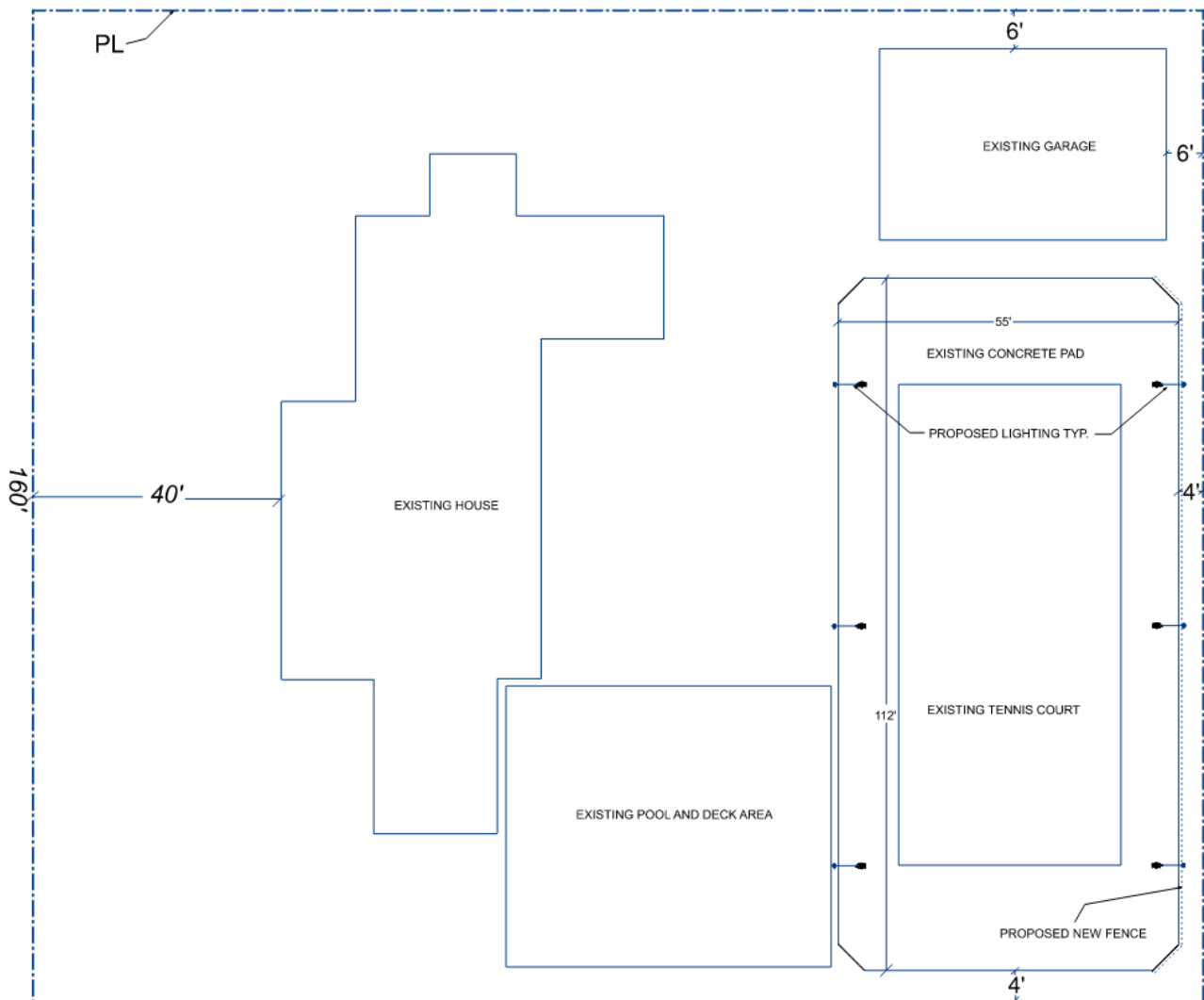
DIRECTION	ZONING DISTRICT	EXISTING LAND USE
Project Site	R1 “Single-Family Residence” district	Single Family Dwelling
North	R1 “Single-Family Residence” district	Single Family Dwelling
South	R1 “Single-Family Residence” district	Single Family Dwelling
East	City of Anaheim	Single Family Dwelling and Elementary School
West	R1 “Single-Family Residence” district	Single Family Dwelling

Aerial of Project Site

An aerial photograph of the Project site and surrounding properties within unincorporated Anaheim is provided below.



SITE PLAN
 190'



DISCUSSION/ANALYSIS:

Below is a table comparing the development standards for the R1 “Single-Family Residence” district with the Applicant’s proposal.

STANDARD	PERMITTED	PROPOSED
Building Site Area	7,200 square feet minimum	30,400 square feet (existing)
Maximum Fence Height	6’ (within the side or rear setback area)	10’ Fence (proposed)*

Maximum Accessory Structures Height	12' (within the side or rear setback area)	12' Light Poles (proposed)
Structural Front Setback	20' minimum	129' fence and light poles (proposed)
Structural Side Setback	5' minimum	43' left side fence and light poles (proposed) 4' right side fence and light poles (proposed)*
Structural Rear Setback	25' minimum	4' right side fence and light poles (proposed)*

*Indicates deviation from Site Development Standards

The applicant is requesting approval for the installation of a 10-foot-high chain-link fence and six (6) 12-foot high tennis court lights along the rear of the property. A Use Permit is requested to allow the height of the fence to exceed the maximum allowable height within the side and rear setback areas of six (6) feet. Additionally, the applicant is proposing to add six (6) light poles that would be twelve (12) feet tall and would be located as close as four (4) feet from the rear of the property. While the fence requires approval of a Use Permit, the six (6) 12-foot-tall light poles are a permitted use. However, Section 7-9-67 of the Zoning Code requires that all lighting be designed and located so as to confine direct rays to the premises. Consequently, the applicant provided a photometric plan, included with Attachment #6, to show that the proposed project meets this requirement.

County of Orange Zoning Code Section 7-9-64(f) state that exceptions and modifications to the fence height provisions may be permitted by approval of a Use Permit by Zoning Administrator if the following findings can be made:

- A. *That the height and location of the fence or wall as proposed will not result in or create a traffic hazard.*
- B. *The location, size, design and other characteristics of the fence or wall will not create conditions or situations that may be objectionable, detrimental or incompatible with other permitted uses in the vicinity.*

The proposal consists of a chain link fence with privacy mesh that would be ten (10) feet tall and be located four (4) feet from the rear and side of the property. The proposed fence would be added around an existing tennis court that is located in the rear of the subject property. The location and height of the fence is required to prevent tennis balls from going into the neighboring properties. Since the proposed fence would be located along the rear of the property the fence would not result in or create a traffic hazard.

Additionally, similar projects in the area have been proposed and approved. Below is a table of similar projects approved.

APPLICATION	LOCATION	PERMITTED	APPROVED HEIGHT
PA130036	9401 Hillview Road, Anaheim	Over-height wall (max height 10'-8") in the front setback.	10'8"
PA080041	9541 W Ball Road, Anaheim	Over height walls within all setbacks	7'

The location, size, and design of the fence is consistent with similar improvements throughout the area and will not be objectionable, detrimental or incompatible with other permitted uses in the vicinity. Staff recommends that the two required findings to modify the permitted wall height can be made.

REFERRAL FOR COMMENT AND PUBLIC NOTICE:

A copy of the planning application and the proposed site plan were distributed for review and comment to appropriate County divisions. Staff has reviewed all comments received, and where appropriate, has addressed the comments through recommended Conditions of Approval, which are provided as Attachment #2. Public notices were mailed to all owners of record within 300 feet of the subject property, posted in front of the project site, in a local newspaper, and in the lobby at the County Administration North building located at 400 W Civic Center Dr, Santa Ana, CA 92701, at least ten days prior to this public hearing, as required by established public hearing posting procedures. As of the writing of this staff report, no comments raising issues with the project have been received from OCFA or other County divisions.

Additionally, sets of plans for the proposed project were distributed to the City of Anaheim for review and comment. The City of Anaheim responded on May 2, 2023 and requested that a Condition of Approval be added that would require testing of light fixtures, prior to building final, to verify that the installed 4-way shields prevent any light glare onto adjacent residential and non-residential uses as demonstrated in the photometric plan. Consequently, this Condition of Approval has been added to the project.

CEQA COMPLIANCE:

The proposed project is exempt from CEQA per Guidelines Section 15301 Class 1 exemption (Existing Facilities) provides for accessory structures and uses on the same site as the approved principal use.

CONCLUSION:

Staff has reviewed the applicant’s request for a Use Permit for over-height fence and lights and found it to be compliant with the special findings necessary under Zoning Code Section 7-9-137.5(f). Staff recommends Zoning Administrator approval of Planning Application PA23-0004 for a Use Permit

subject to the attached Recommended Findings and Conditions of Approval provided as Attachments 1 and 2.

Submitted by:


boxSIGN 42XV6LY4-4WBV6P93

Cynthia Burgos, Contract Planner
OC Development Services/Planning

Concurred by:


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Justin Kirk, Deputy Director
OC Public Works/Development Services

ATTACHMENTS:

1. Recommended Findings
2. Recommended Conditions of Approval
3. Applicant's Letter of Justification
4. Environmental Documentation NOE PA23-0004
5. Site Photos
6. Site Plans

APPEAL PROCEDURE:

Any interested person may appeal the decision of the Zoning Administrator on this permit to the OC Planning Commission within 15 calendar days of the decision upon submittal of required documents and a filing fee of \$500 filed at the County Service Center, 601 N. Ross Street, Santa Ana. If you challenge the action taken on this proposal in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this report, or in written correspondence delivered to OC Development Services/Planning Division.

Attachment 1



Attachment 1
Findings
PA23-0004

1	ZONING	PA23-0004
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That the use, activity or improvement(s) proposed, subject to the specified conditions, is consistent with the provisions of the Zoning Code, or specific plan regulations applicable to the property.

2	COMPATIBILITY	PA23-0004
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That the location, size, design and operating characteristics of the proposed use will not create unusual conditions or situations that may be incompatible with other permitted uses in the vicinity.

3	GENERAL WELFARE	PA23-0004
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That the application will not result in conditions or circumstances contrary to the public health and safety and the general welfare.

4	ENVIRONMENTAL	PA23-0004
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That the proposed project is exempt from CEQA because the Class 1 (Existing Facilities) Section 15301 provides for accessory structures and uses on the same site as the approved principal use.

5	GENERAL PLAN	PA23-0004
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That the use or project proposed is consistent with the objectives, policies, and general land uses and programs specified in the General Plan adopted pursuant to the State Planning and Zoning Law.

6	PUBLIC FACILITIES	PA23-0004
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That the approval of the permit application is in compliance with Codified Ordinance Section 7-9-711 regarding public facilities (fire station, library, sheriff, etc.).

7	OVER HEIGHT FENCE AND LIGHT 1	PA23-0004
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That the height and location of the fence/wall and light as proposed will not result in or create a traffic hazard.

8	OVER HEIGHT FENCE AND LIGHT 2	PA23-0004
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That the location, size, design and other characteristics of the fence/wall and light will not create conditions or situations that may be objectionable, detrimental or incompatible with other permitted uses in the vicinity.

Attachment 2



**Attachment 2
Conditions of Approval
PA23-0004**

BASIC/APPEAL EXACTIONS - - Z06

Pursuant to Government Code Section 66020, the applicant is hereby informed that the 90-day approval period in which the applicant may protest the fees, dedications, reservations or other exactions imposed on this project through the conditions of approval has begun.

BASIC/COMPLIANCE - - Z04

Failure to abide by and faithfully comply with any and all conditions attached to this approving action shall constitute grounds for the revocation of said action by the Orange County Planning Commission.

BASIC/LAND USE PLAN - - Z03

Except as otherwise provided herein, this permit is approved as a land use plan. If the applicant proposes changes regarding the location or alteration of any use or structure, the applicant shall submit a changed plan to the Director, OC Development Services, for approval. If the Director, OC Development Services, determines that the proposed change complies with the provisions and the spirit and intent of the original approval action, and that the action would have been the same for the changed plan as for the approved plot plan, he may approve the changed plan without requiring a new public hearing.

CONSTRUCTION NOISE

- A. Prior to the issuance of any grading permits, the project proponent shall produce evidence acceptable to the Manager, Permit Services, that:
- (1) All construction vehicles or equipment, fixed or mobile, operated within 1,000 feet of a dwelling shall be equipped with properly operating and maintained mufflers.
 - (2) All operations shall comply with Orange County Codified Ordinance Division 6 (Noise Control).
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(3) Stockpiling and/or vehicle staging areas shall be located as far as practicable from dwellings.

B. Notations in the above format, appropriately numbered and included with other notations on the front sheet of the project's permitted grading plans, will be considered as adequate evidence of compliance with this condition.

BASIC/ZONING REGULATIONS - BASIC/ZONING REGULATIONS - Z01

This approval constitutes approval of the proposed project only to the extent that the project complies with the Orange County Zoning Code and any other applicable zoning regulations. Approval does not include any action or finding as to compliance or approval of the project regarding any other applicable ordinance, regulation or requirement.

INDEMNIFICATION - Z05

Applicant shall, at its own expense, defend, indemnify and hold harmless the County of Orange, its officers, agents and employees from any claim, action or proceeding against the County, its officers, agents or employees to attack, set aside, void, or annul any approval of the application or related decision, or the adoption of any environmental documents, findings or other environmental determination, by the County of Orange, its Board of Supervisors, Planning Commission, Zoning Administrator, Subdivision Committee, Director of OC Public Works, or Deputy Director of OC Development Services concerning this application. The County may, at its sole discretion, participate in the defense of any action, at the applicant's expense, but such participation shall not relieve applicant of his/her obligations under this condition. Applicant shall reimburse the County for any court costs and attorney's fees that the County may be required to pay as a result of such action. If litigation is filed challenging the Project, the County may, at its sole discretion, require the Applicant to post a bond, enter into an escrow agreement, obtain an irrevocable letter of credit from a qualified financial institution, or provide other security, to the satisfaction of the County, in anticipation of litigation and possible attorney's fee awards. The County shall promptly notify the applicant of any such claim, action or proceeding.

BASIC/TIME LIMIT - - Z02

This approval is valid for a period of 36 months from the date of final determination. If the use approved by this action is not established within such period of time, this approval shall be terminated and shall thereafter be null and void.

EROSION AND SEDIMENT CONTROL PLAN

Prior to the issuance of any grading or building permit, the applicant shall submit an Erosion and Sediment Control Plan (ESCP) in a manner meeting approval of the Manager, Building and Safety Division, to demonstrate compliance with the County’s NPDES Implementation Program and state water quality regulations for grading and construction activities. The ESCP shall identify how all construction materials, wastes, grading or demolition debris, and stockpiles of soil, aggregates, soil amendments, etc. shall be properly covered, stored, and secured to prevent transport into local drainages or coastal waters by wind, rain, tracking, tidal erosion or dispersion. The ESCP shall also describe how the applicant will ensure that all BMPs will be maintained during construction of any future public right-of-ways. The ESCP shall be updated as needed to address the changing circumstances of the project site. A copy of the current ESCP shall be kept at the project site and be available for County review on request.

LIGHTING

Prior to the issuance of any building permit, the applicant shall submit testing of light fixtures, to verify that the installed 4-way shields are preventing any light glare onto adjacent residential and non-residential uses as demonstrated in the photometric plan.
