

RESOLUTION NO. 2021- 5761

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
YORBA LINDA UPHOLDING THE PLANNING
COMMISSION'S DECISION TO APPROVE CONDITIONAL
USE PERMIT 2021-13 – ZHANG**

WHEREAS, an application for Conditional Use Permit 2021-13 was made by Xuiqin Zhang, 19404 Via Del Caballo, Yorba Linda, CA 92886, to exceed the maximum three-foot (3'-0") height limitation for walls/fencing within the front yard setback to allow the construction of a six-foot (6'-0") fence and six-foot (6'-0") tall vehicular gate, for the property addressed as 19404 Via Del Caballo, within the Residential Agriculture (RA) zone; and,

WHEREAS, in accordance with all of the land use application review requirements and procedures contained in the City of Yorba Linda Municipal Code, and the requirements of other applicable local, state and federal agencies, on May 26, 2021, the Planning Commission reviewed this matter at a duly noticed public hearing and adopted Resolution No. 5458 approving Conditional Use Permit 2021-13; and,

WHEREAS, on June 8, 2021, Mr. Michael Rosenthal appealed the Planning Commission's decision to approve this project; and,

WHEREAS, this matter of appeal requires a public hearing in accordance with Section 18.36.700.C of the Zoning Code; and,

WHEREAS, notice of public hearing before the City Council of the City of Yorba Linda concerning the matter of appeal was given in accordance with applicable law; and,

WHEREAS, on August 17, 2021, the City Council held a public hearing pertaining to appeal of Conditional Use Permit 2021-13; and,

WHEREAS, on August 17, 2021, the City Council moved to continue the public hearing pertaining to appeal of Conditional Use Permit 2021-13 to a date certain on September 21, 2021; and,

WHEREAS, on September 21, 2021, the City Council reopened the public hearing pertaining to appeal of Conditional Use Permit 2021-13; and,

WHEREAS, the City Council has reviewed and considered the Planning Commission's action to approve this project, included the findings upon which the Planning Commission based its approval actions, and all of the conditions of approval, contained within Resolution No. 5458; and,

WHEREAS, after consideration of the staff report and all of the information, testimony, and evidence presented at the public hearing, the Yorba Linda City Council does hereby find that with incorporation of the conditions attached hereto as Exhibit "A":

- A. The proposed location of the conditional use is in accord with the objectives of the Zoning Code and the purpose of the zone in which the site is located in that Section 18.10.130.A of the Yorba Linda Zoning Code allows walls/fences greater than three feet (3') high within the front yard setback, after recommendation by the City Traffic Engineer and Section 18.10.120.H allows for large accessory structures within the front yard area, subject to the granting of a conditional use permit by the Planning Commission.
- B. The location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or be materially injurious to properties or improvements in the vicinity in that the City Traffic Engineer has reviewed the design and location of the fence and gates and has determined that the fencing would not conflict with sight distance visibility along the street, nor present any other traffic safety risk. In addition, the fence is also designed to complement the existing fencing through its ornamental and decorative combination cast iron and tile pilaster design.
- C. The proposed conditional use will comply with each of the applicable provisions of the Zoning Code of the City of Yorba Linda.
- D. The project constitutes a Class 3 (New Construction) Categorical Exemption, and is therefore, exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Title 14 California Code of Regulations Section 15303.
- E. As this project involves no repeal, amendment, or adoption of all or any part of the land use planning policy documents as specified in Section 18.01.020 of the Yorba Linda Municipal Code, this project is exempt from the provisions of Chapter 18.01 of the Yorba Linda Municipal Code, also known as the "Yorba Linda Right-to-Vote Amendment."

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Yorba Linda does hereby uphold the decision of the Planning Commission, and approve Conditional Use Permit 2021-13 subject to the conditions of approval herein known as Exhibit "A" attached to this Resolution and by this reference incorporated herein.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Yorba Linda, on the 21st day of September 2021.

PEGGY HUANG, MAYOR
CITY OF YORBA LINDA

EXHIBIT "A"
FOR RESOLUTION NO. 2021- 5761
APPROVING CONDITIONAL USE PERMIT 2021-13 – ZHANG

A. Standard Conditions:

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| Eng. | <ol style="list-style-type: none">1. Best Management Practices (BMPs) shall be used during the construction in accordance with the Construction Runoff Guidance Manual for Contractors, Project Owners, and Developers to prevent pollutants, construction materials, and soil from entering the storm drain.2. Prior to building permit, the proposed improvements shall comply with the California Building Code latest edition.3. Prior to building permit, the proposed improvements shall comply with sight distance requirements of OCPW standard plan 1117 and City Zoning Ordinance 18.26 vision triangle.4. The applicant shall obtain an encroachment permit for work within the City right of way. The encroachments will be evaluated by the City Council and if approved, the applicant shall enter into an encroachment agreement. The agreement will be governed by the City Council E-5 policy: Encroachment onto City-Owned Easement. |
| Bldg. | <ol style="list-style-type: none">5. Construction and Development shall comply with the latest adopted California Building Code, California Residential Code, California Mechanical Code, California Plumbing Code, The California Electrical Code, California Green Building Standards Code, State Building Standards Title 24, and all other applicable codes.6. All structures shall be designed in accordance with Section 1609 for the wind design and Section 1613 seismic design of the 2019 California Building Code. The design shall be site specific and include the necessary data to justify proposed design. The wind loading in Yorba Linda is 110 mph, using Basic Wind Speed and Exposure C.7. If applicable, all walls and fences constructed by either a homeowner or developer at the front, side or rear property lines shall meet the minimum standards for pool enclosures as specified by Chapter 15.32 of the Yorba Linda Municipal Code and conform to Yorba Lind Ordinance Number 2016-1024. |

8. Applicant shall satisfy all conditions of approval and any other department or agency requirements prior to the building permit's final inspection.
- Plng. 9. Approval of this request shall not excuse compliance with all other applicable City ordinances and development standards in effect at this time.
10. Applicant shall provide to the Planning Department, **prior to issuance of building permits**, an electronic copy of the final plans approved by the Planning Commission. The copy shall be provided on a CD-ROM or USB drive in “.pdf” format.
11. The applicant shall defend, indemnify, and hold harmless the City of Yorba Linda, its agents, officers and employees from any claim, action or proceeding against the City or its agents, officers or employees to attack, set aside, void or annul an approval of the subject application by the City, its legislative body, advisory agencies or administrative officers. The City will promptly notify the applicant of any such claim, action or proceeding against the City and the applicant will either undertake defense of the matter and pay the City's associated legal costs, or will advance funds to pay for defense of the matter by the City Attorney.
12. Conditional Use Permit 2021-13 is granted for a period of one year and shall become void as of September 21, 2022, unless building permits have been issued and construction is diligently pursued toward completion on the structure that is the subject of Conditional Use Permit 2021-13 or a time extension is requested in writing prior to that date.

B. Special Conditions:

- Plng. 13. The approval of Conditional Use Permit 2021-13 is for construction of a combination stucco and decorative cast-iron six-foot (6'-0”) tall fence and six-foot (6'-0”) tall metal sliding vehicular gate within the front yard setback of the subject property, as reflected on the project plans approved by the Planning Commission.
14. Per Section 18.26.090 of the Yorba Linda Zoning Code the applicant shall conform to the corner cut-off area requirement along the right-of-way line for the purpose of maintaining adequate site distance.

15. Per Section 18.26.090 of the Yorba Linda Zoning code, vegetation and landscaping along Palm Avenue and Via Del Caballo shall be trimmed and maintained to prevent line-of-sight visibility obstruction.
16. The applicant shall obtain an encroachment permit for any improvements extending into the public right-of-way.
17. Any modification to the approved wall/fencing shall be subject to the review and approval of the Community Development Director, prior to the issuance of building permits and may require further approval by the Planning Commission.
18. The vehicle gate along Via Del Caballo shall be set back a minimum distance of fifteen feet (15') from the edge of the Via Del Caballo private street easement.

- The End -