

**CITY OF OJAI  
CITY COUNCIL RESOLUTION NO. 20-48**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OJAI, CALIFORNIA, DISMISSING THE APPEAL OF THE PLANNING COMMISSIONS DETERMINATION TO UPHOLD THE APPEAL, WITH MINOR MODIFICATIONS, OF THE COMMUNITY DEVELOPMENT MANAGER'S DECISION TO REVOKE THE APPROVAL OF ZONE CLEARANCE (ZCL 19-096) FOR THE RELOCATION AND RECONSTRUCTION OF A 6'-0" TALL FENCE LOCATED AT 603 LION STREET, ASSESSOR'S PARCEL NUMBERS: 021-0-043-140, AND DETERMINATION THE PROJECT IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

**WHEREAS**, on March 18, 2020, the Community Development Department issued Zoning Clearance 19-096 which approved the relocation and reconstruction of a non-conforming fence approximately 6'-0" high and along the property line of a portion of Lion Street, along the property line of Grand Avenue, and along the western property line of 603 Lion Street; and

**WHEREAS**, on June 16, 2020, a stop-work order was issued for the construction of the subject fence along the western edge of the property, Grand Avenue, and a portion of Lion Street after it was determined that the zoning clearance had been issued in error; and

**WHEREAS**, on June 19, 2020, the Community Development Manager met onsite with property owners Kyle and Liz von Hasseln to discuss the zoning clearance, the error in the determination, as well as the homeowners options moving forward; and

**WHEREAS**, on June 25, 2020, a revocation letter was prepared by the Community Development Manager and mailed to the homeowners of 603 Lion Street; and

**WHEREAS**, on July 9, 2020, property owners Kyle and Liz von Hasseln submitted Miscellaneous Permit (MISC 20-026) for an appeal of a Director's Decision revoking the Approval of Zoning Clearance (ZCL 19-096) for the fence relocation and reconstruction located at 603 Lion Street pursuant to Ojai Municipal Code (OMC) Section 10-2.3402(a)(4)(A), in a Multi-Family Zoning District (R-2); and

**WHEREAS**, On August 5, 2020, the Planning Commission made a determination to uphold the appeal in part with modifications, allowing the fence to remain in the same footprint, but at a lower 3'-0" height at the Grand Avenue and Lion Street corner, or to be moved outside of the traffic safety visibility triangle, and remain at 6'-0" tall; and

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**WHEREAS**, On August 10, 2020, the homeowners, without consulting or notifying staff, commenced construction of their fence prior to the 15-day appeal period being exhausted and in violation of their stop-work order, which had been in place since June 16, 2020, and had not been lifted; and

**WHEREAS**, The Community Development Manager visited the site, on August 10, 2020, to inform the owner that continued construction was a violation of the stop-work order. The owner was told that construction of the fence may not commence until after the appeal period has ended and the stop-work order has been lifted. Despite this notification, the homeowners went ahead with the construction of the fence; and

**WHEREAS**, The Community Development Manager sent a follow-up letter on August 12, 2020, outlining the Planning Commission decision from August 5, 2020, as well as reiterating the violation of the stop-work order and the completion of the fence, and the Planning Commission Decision of August 5, 2020. In the letter, the homeowners were made aware of the issuance of an administrative citation, but a window of opportunity was provided to resolve the issue by revising the fence per the Planning Commission decision. The property owners were given until August 17, 2020, to resolve the matter, and preserve the safety concern at the intersection of Grand Avenue and Lion Street; and

**WHEREAS**, On August 19, 2020, the homeowners of 603 Lion Street appealed the Planning Commission decision. In their appeal they sought compensation for the revision to the fence, as well as to argue that the fence should not be revised, alleging that the original permit and the Public Works Director indicated that there is no visibility issue; and

**WHEREAS**, On August 24, 2020, the Community Development Manager inspected the site and confirmed the fence had not been revised in compliance with the Planning Commission determination and in violation of the stop-work order; and

**WHEREAS**, In response to the homeowner's decision to proceed with construction of the fence despite the Planning Commission's decision, and the letter issued to the home owner on August 12, 2020, the Community Development Department issued an administrative citation in the amount of \$500 for the violation of the stop-work order and Planning Commission determination; and

**WHEREAS**, a public hearing was held by the City Council on September 8, 2020, to consider a timely appeal of the Planning Commission's decision on August 5, 2020, to uphold the appeal in part with modifications, allowing the fence to remain in the same footprint, but at a lower 3'-0" height at the Grand Avenue and Lion Street corner, or to be moved outside of the traffic safety visibility triangle, and remain at 6'-0" tall; and

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**WHEREAS**, after taking public testimony and hearing evidence from the City staff and the applicant, the City Council finds, pursuant to the findings included in this resolution and subject to the Planning Commission's decision included in this resolution, that the requested Appeal is not consistent with the City of Ojai's Municipal Code and creates safety concerns; and

**WHEREAS**, based upon the foregoing facts and findings in compliance with OMC §10-2.803 (Height Measurements and Exceptions) subsection (e), the City Council hereby determines as follows:

Proposed development and/or structures adjacent to any public or private street or alley intersection shall be designed to provide a corner visibility area for pedestrian and traffic safety. The re-construction of a fence at the intersection of Grand Avenue and Lion Street must adhere to the 25'-0" visibility triangle area pursuant to Section 10-2.803(f), with a limitation of 3'-0" in height for structures within the traffic safety visibility area. The intersection visibility provides a safe visible area for pedestrians, bicyclists, and vehicles along Grand Avenue and Lion Street.

**NOW THEREFORE**, the City Council of the City of Ojai does hereby resolve as follows:

**SECTION 1. Recitals.** All of the above recitals are true and correct and incorporated herein by reference as if set forth in full.

**SECTION 2. Findings and Decision.**

**Findings.** Ojai Municipal Code section 10-2.1901 requires that a zoning clearance not be issued unless the review authority finds that all applicable provisions of the Zoning Regulations and Ojai Municipal Code have been met.

The City Council finds that the proposed fence, as revised in location and height by the Planning Commission, meets the applicable Ojai Municipal Code standards. The Ojai Municipal Code requires that that landscape elements within the Intersection Visibility Triangle to be limited to a height of 36-inches, or three feet, per Ojai Municipal Code Section 10-2.803(g), unless exceptions have been approved by the Community Development Manager under Section 10-2.104. The imposed lower 3'-0" fence height at the Grand Avenue and Lion Street corner meets the requirements under Section 10-2.803(g). The approved exception for the alternative of a six-foot fence on the interior border of the sight triangle also meets the requirements of the municipal code.

In view of the foregoing findings, the City Council hereby upholds the Planning Commission determination of August 5, 2020, and dismisses the appeal of the Planning Commission's decision. The decision of the City Council is final.

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The property owners are to reestablish the 25'-0" sight line to be at the edge of pavement on Grand Avenue and the estimated edge of pavement on Lion Street. The fence posts are to remain as is, excluding the small portion that falls in the sight line. The appellant has the opportunity to either put a three-foot fence within that portion of the sight triangle or a six-foot fence on the interior border of the sight triangle.

**SECTION 3. Conditions of Approval.**

1. The proposed project shall be built in compliance with the approved plans on file with the Community Development Department and the exhibit included herein as part of this resolution (Exhibit 1).
2. Prior to the relocation and/or reduction in height of the fence, the homeowner/property owner shall schedule a meeting with the Community Development Manager to identify the adjusted location of fence in compliance with this resolution and the August 5, 2020, Planning Commission determination.
3. The fence shall be adjusted to comply with the height, location, and other requirements set by this Resolution within thirty days of its adoption, to the satisfaction of the Community Development Manager.

The City Council further directs that the City Manager shall authorize reimbursement up to \$2,700 to the appellant for costs related to fence installation, provided that the appellant pay the two administrative citations issued by the City: Administrative Citation No. 0561, for \$500, issued on August 24, 2020, and Administrative Citation No. 0507 for \$500, issued on September 8, 2020.

**SECTION 4. Environmental Determination.** The City Council determines this Resolution is exempt from review under the California Environmental Quality Act (CEQA). Pursuant to section 15061(b)(3) of the CEQA Guidelines, CEQA applies only to projects which have the potential for causing a significant effect on the environment. Dismissing the appeal of a Planning Commission determination is not a project within the meaning of CEQA Guidelines section 15378, subsection (b)(3).

**SECTION 5. Certification.** The City Clerk shall certify to the passage of this resolution and enter it into the book of original resolutions.

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**PASSED, APPROVED and ADOPTED** this 8<sup>th</sup> day of September 2020 by the following vote:

**AYES:** Blatz, Francina, Haney, Johnston, Weirick

**NOES:** None

**ABSTAIN:** None

**ABSENT:** None


CITY OF OJAI, CALIFORNIA

By:

  
\_\_\_\_\_  
John F. Johnston, Mayor

  
\_\_\_\_\_  
Date signed

ATTEST:

  
\_\_\_\_\_  
Gail Davis, Deputy City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Matthew T. Summers, City Attorney