

**RESOLUTION NO. 2019-57**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF POMONA, CALIFORNIA APPROVING A CONDITIONAL USE PERMIT (CUP 10881-2018) TO ALLOW FOR THE CONSTRUCTION OF A NEW 1,652 SQUARE FOOT SINGLE FAMILY STRUCTURE AND TWO-CAR GARAGE, A 704 SQUARE FOOT ADDITION TO AN EXISTING 800 SQUARE FOOT SINGLE FAMILY RESIDENCE AND NEW SINGLE-CAR GARAGE, AND A 339 SQUARE FOOT ADDITION TO AN EXISTING 1,163 SQUARE FOOT SINGLE FAMILY RESIDENCE ON A PROPERTY LOCATED AT 1531 AND 1533 WEST ORANGE GROVE AVENUE**

**WHEREAS**, the applicant, Cheng Shan Cheng, has submitted an application for Conditional Use Permit (CUP 10881-2018) to allow for the construction of a new 1,652 square foot single family structure and two-car garage, a 704 square foot addition to an existing 800 square foot single family residence and new single-car garage, and a 339 square foot addition to an existing 1,163 square foot single family residence on a property located at 1531 and 1533 W. Orange Grove Avenue, Assessor's Parcel Number 8355-021-015;

**WHEREAS**, the applicant has concurrently submitted an application for Change of Zone (ZONE 10882-2018) to add the R-1-E, Single-family residential overlay District to the existing Zoning designation of R-1-6,000, Single-family residential District on property located at 1531 and 1533 W. Orange Grove Avenue, Assessor's Parcel Number 8355-021-015;

**WHEREAS**, the subject property has a General Plan Place Type designation of Residential Neighborhood as well as a Transect Zone designation of T3 Typical;

**WHEREAS**, Section .270 of the Pomona Zoning Ordinance requires development of land in the R-1-E Single family, residential overlay district to be reviewed by the Planning Commission prior to the issuance of building permits. The purpose of such review shall be to determine whether the characteristics of any such use are compatible with the types of uses generally permitted in the surrounding area, and further, to stipulate such reasonable conditions as may be deemed necessary to assure that the basic purposes of this ordinance are being served;

**WHEREAS**, the Planning Commission of the City of Pomona has, after giving notice thereof as required by law, held a public hearing on April 24, 2019, concerning the requested Conditional Use Permit (CUP 10881-2018) and carefully considered all pertinent testimony and the staff report offered in the case as presented at the public hearing;

**WHEREAS**, the City Council of the City of Pomona has, after giving notice thereof as required by law, held a public hearing on May 20, 2019, concerning the requested Conditional Use Permit (CUP 10881-2018);

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Pomona as follows:

**SECTION 1.** Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), this action as defined is Categorically Exempt, under Section 15303, Class 3 exemption for construction of small facilities, in that the project is located in an urbanized area and consists of the construction of one new single family structure as well as additions to two existing single family structures. Therefore, no further environmental review is required.

**SECTION 2.** If any part, provision, or section of this resolution is determined by a court or other legal authority with jurisdiction over the subject matter of this resolution to be unenforceable or invalid, the remainder of the entirety of this resolution shall not be affected and shall continue in full force and effect. To this end, the provisions of this resolution are severable.

**SECTION 3.** In accordance with Section .580.B of the Zoning Ordinance, the City Council must make five findings in order to approve Conditional Use Permit (CUP 10881-2018). Based on consideration of the whole record before it, including but not limited to, the staff report, public testimony received at the public hearing on this matter, and evidence made part of the public record, the City Council hereby finds as follows:

1. *That the proposed use at the particular location will contribute to the general well-being of the neighborhood or community.*

The proposed use of the subject site for residential development, specifically, the development of one new residential unit and additions to existing residential units at this particular location will contribute to the general well-being of the neighborhood and the community by expanding housing opportunities for residents and by enhancing the appearance of the general area.

2. *That such use will not, under the circumstances of the particular case be detrimental to the health, safety, peace, or general welfare of persons residing or working in the vicinity or detrimental to the use, valuation or enjoyment of property or improvements in the vicinity.*

The project will not be detrimental to the health, safety, peace, or general welfare of persons residing or working in the vicinity since the project is in full conformance with the development standards and use requirements of both the R-1-E Overlay district and the R-1-6,000 district. The project will not be detrimental to the use, valuation, and enjoyment of property and improvements in the vicinity since the subject site is consistent with the surrounding properties which are zoned and planned for residential uses by the General Plan. The project, as designed, will enhance the neighborhood.

3. *That the site of the proposed use is of adequate topography, size and shaped to accommodate said use as well as all yards spaces, walls, fences, parking, loading, landscaping and any other features necessary to allow said use with the land and uses in the neighborhood and make it compatible thereto.*

The subject site is rectangular in shape and relatively flat with an area of approximately

17,490 square feet. Therefore, the site has the adequate topography, size and shape to accommodate the proposed residential development project.

4. *That the site abuts streets and highways are adequate in width and improvements to carry traffic generations typical of the proposed use.*

The subject site has street access directly to West Orange Grove Avenue, a minor arterial street, which is of adequate width and improvement to carry traffic generations typical of residential development projects.

5. *That granting of such conditional use permit will not adversely affect the General Plan of the city and conforms to the provisions of the zoning ordinance.*

The granting of the conditional use permit will not adversely affect the General Plan and conforms to the provisions of the Pomona Zoning Ordinance. The proposed residential use is consistent with the "Residential Neighborhood" place type as designated on the General Plan Land Use Map. The project furthers the goals and objectives of the General Plan by allowing a development that would ensure safe, family-oriented, human-scaled, walkable and livable residential neighborhoods (Goal 6G.G8). The project will develop a site that is currently underutilized into an aesthetically pleasing development that contributes to the City's housing stock which the General Plan identifies as being under supplied.

**SECTION 4.** Based upon the above findings, the City Council hereby approves Conditional Use Permit (CUP 10881-2018) subject to compliance with all applicable laws and ordinances of the City as well as the addition of the following conditions, violations of which (or failure to complete any of which) shall constitute grounds for revocation of the conditional use permit or any portion thereof:

### **Planning**

1. The subject property shall be developed and/or used in a manner consistent with the project plans reviewed and approved by the City Council on May 20, 2019. Any major modifications to the approved project plans shall be reviewed and approved by the Planning Commission as part of a modification to the approved plans. Any minor modifications that do not affect the overall intent of the approved project, may be reviewed and approved by the Development Services Manager.
2. The applicant shall indemnify, protect, defend, and hold harmless, the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, from any and all claims, demands, law suits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolutions procedures (including, but not limited to arbitrations, mediations, and other such procedures), (collectively "Actions"), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to

modify, set aside, void, or annul, the any action of, or any permit or approval issued by, the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City), for or concerning the project, whether such Actions are brought under the California Environmental Quality Act, the Planning and Zoning Law, the Subdivisions Map Act, Code of Civil Procedure Section 1085 or 1094.5, or any other state, federal, or local statute, law, ordinance, rule, regulation, or any decision of a court of competent jurisdiction. It is expressly agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the City's defense, and that applicant shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City shall promptly notify the applicant of any Action brought and City shall cooperate with applicant in the defense of the Action.

3. In case of a violation of any of the conditions of approval and/or City law, the property owner and tenant will be issued a Notice of Correction. If said violation is not remedied within a reasonable period of time and/or a subsequent violations of the conditions of approval and/or City law occurs within ninety (90) days of any Notice of Correction, the property owner shall be held responsible to reimburse the City for all staff time directly attributable to enforcement of the conditions of approval and/or City law, including, but not limited to, revocation of the herein Conditional Use Permit.
4. Any future substantial changes in the approved plans, except as allowed for by the following conditions, shall require a modification to the Conditional Use Permit.
5. The property shall be maintained free of weeds and debris prior, during and after the construction period.
6. Landscaping is to include a variation of trees, shrubs, vines and ground covers, shall be installed and permanently maintained in all common areas of the project site. All landscape areas shall be provided with an automated underground irrigation system. Prior to receiving building permit final, the applicant shall obtain the approval from the Planning Division of a precise landscape and irrigation plan prepared by a licensed Landscape Architect, which meets the most current State of California Drought Executive Order Model Water Efficiency Landscape Ordinance (MWELo) and any modification as adopted by the City of Pomona.
7. The property owner shall remove any graffiti on the project site within 24 hours of discovery. The paint utilized to cover the graffiti must substantially match the existing structure. In the event that the paint finish of the abated area is noticeably distinguishable from the rest of the structure, the property owner shall paint additional portions of the building to minimize the disparity, subject to the approval of the Development Services Manager. Original surface materials installed and designed to not accept paint material such as stone, metal, brick, faux stone, veneers, etc. shall be restored to original finish with methods accepted and agreed to by the Development Services Manager.
8. All plumbing fixtures shall utilize low flow or low water usage appliances (toilets, sinks, water hose, etc.).

9. The applicant shall replace any wood or chain link fencing along the property lines with a 5' block wall, repair the existing block wall as necessary, as well as apply a smooth plaster finish to both the existing and new block wall.
10. Any proposed wall or fencing on the subject site shall be in compliance with Section .503-I of the Pomona Zoning Ordinance and subject to review and approval of a Fence and Wall Permit by the Planning Division prior to receiving a final sign-off on building permits.
11. The applicant shall work with staff to maximize the amount of landscaping provided on the subject property, to the extent feasible, subject to the approval of the Director of Development Services.
12. The applicant shall provide at minimum of two, fifteen gallon shade trees on the subject property. Species of tree and planting location shall be subject to the approval of the Director of Development Services.
13. The approval of Conditional Use Permit (CUP 10881-2018) shall be contingent upon the approval of Change of Zone (ZONE 10882-2018) by the City Council and effective upon the termination of the appeal period for Change of Zone (ZONE 10882-2018).

#### **Building and Safety**

14. The undergrounding of utility facilities is required. (PMC 62-31) An application for an exemption may be submitted as specified on PMC 62-31 section (c).
15. The design must be reviewed and stamped by an architect or engineer licensed in the State of California – (Business and Professions code Sections 5537, 5538 and 6737.1)
16. A building permit shall be obtained for the proposed construction and site development. The design of the building shall comply with the 2016 California Building Codes.
17. All grading shall conform to the 2016 California Building Code, and all other relevant laws, ordinances and resolutions governing grading as adopted by the City of Pomona. The applicant shall obtain a grading permit from the Building & Safety Division prior to commencing any grading or site excavation.
18. Geotechnical and/or soils reports required in order to obtain a grading permit shall be submitted to the Building Official for review and approval prior to issuance of a grading permit. All grading shall be in conformance with the recommendations of the geotechnical/soils reports as approved by the City of Pomona.
19. All proposed work shall comply with the 2016 California Energy Code and all other relevant laws, ordinances and resolutions governing Energy conservation as adopted by the City of Pomona.

20. Proposed project shall comply with the 2016 California Green Building Standards Code and all other relevant laws, ordinances and resolutions governing sustainable design as adopted by the City of Pomona.
21. Proposed project shall be sprinklered and comply with all other relevant laws, ordinances and resolutions governing residential sprinklers as adopted by the City of Pomona.
22. Building Department comments and conditions are subject to plan check. Comments are based on information provided.

### **Water Resources Department**

#### **Water & Sewer**

23. There are currently existing eight-inch (8") and six-inch (6") ACP water mains within Orange Grove Avenue. The existing localized static pressure of the project area is 55-65 psi. There is currently an existing eight inch (8") VCP sewer main within Orange Grove Avenue. The existing water and sewer infrastructure shall be shown on the site plan. Further design comments shall be issued by the WRD regarding the extent of proposed public water main within the proposed project area.
24. There is currently an existing 5/8" meter serving 1533 (1531) W. Orange Grove Avenue. Please identify if this existing meter will be used with the proposed development. A 1" meter with a 1" dual check will be required to facilitate sprinkler flow for the proposed third home. Please identify if each of the homes on the site will have their own respective meter. WRD will provide additional comments regarding any proposed or existing service/meter to be used for the project.
25. Verify the fire flow demand and sprinkler need for this site. Contact the Los Angeles County Fire Department for additional requirements.
26. The applicant/developer shall calculate the wastewater discharge and proposed water demand (based on fixture units) to verify that the existing wastewater and water infrastructure can accommodate the water demand, given the size, pressure, and age of the existing system. These calculations shall include fire and domestic water demands. These calculations shall be submitted to the WRD.

### **Public Works Department**

#### **Land Development Requirements**

27. Property Owner shall submit a Certificate of Compliance application to the Public Works Engineering Division, in accordance with the Subdivision Map Act Section 66412.6(b). The Certificate of Compliance shall be recorded prior to the issuance of the building permit for the proposed project.

28. Property Owner shall dedicate a 10-foot strip of land along the Orange Grove Avenue property frontage to ensure the compliance with the ultimate right-of-way width of 100 feet required by the Pomona General Plan for roadways classified as minor arterials.

### **Improvement Plans Requirements**

29. Applicant/Developer shall submit the grading, drainage and erosion control plans for review and approval by the Public Works Engineering, Planning and Building and Safety Divisions.
- a. The plans shall be a minimum of 1" = 10' scale to clearly show all the details; the plans shall be submitted on 24" x 36" sheet size with a standard City title block.
  - b. One-foot topographic contours of the site must extend a minimum of 15 feet beyond the boundary lines.
  - c. The plans shall include sufficient cross sections to show all block wall locations, parkway width and all permanent facilities that might require maintenance and access easements.
  - d. Drainage configurations on the existing adjacent properties shall not be altered, redirected or modified in any way.
  - e. The plans shall include the relocation of the existing curb and wrought-iron fence constructed adjacent to the public sidewalk, from the current location which encroaches in the public right-of way to or behind the property line.
  - f. The plans shall include the following public improvements, which are the responsibility of the Property Owner to complete:
    - i) Reconstruction of the existing driveway approach in compliance with the current City standards and ADA requirements. Unobstructed visibility shall be ensured at the project driveway-Orange Grove Avenue intersection.  
  
Property Owner shall dedicate the necessary real property to ensure a continuous ADA pedestrian path of travel over the new driveway approach.
    - ii) In the event that project related hardscape, wet and/or dry utility pavement cuts are needed along the Orange Grove Avenue frontage, overlay paving shall occur in accordance with the City standard A-26-02.
    - iii) Parkway drains per City standards.
    - iv) Existing and proposed sewer, water and storm drain infrastructure.
    - v) Undergrounding of the proposed overhead utility lines shall conform with the City of Pomona Municipal Code Section 62-31(b) and a note to this effect shall be added to the public street improvement plan.

- vi) The parkway landscaped area shall be maintained by the property owner, as required by the City's Municipal Code Section 46-496 and a note to this effect shall be added to the public street improvement plan.
  - vii) It is the owner's and the contractor's responsibility to repair all damage to the existing public improvements due to the proposed construction activities and to address all repairs requested by the Public Works Inspector based on the inspector's review of the current condition of the said public improvements and a note to this effect shall be added to the public street improvement plan.
- 30. Prior to issuance of the grading permit the Applicant/Developer shall submit written Notifications to the next adjacent (non-City) property owners as indicated on the Planning Commission meeting notification list regarding the direct and indirect impact associated with the proposed construction. The notification shall include a statement confirming that the existing public services (sewer, water, storm drain) to adjacent property owners will not be affected by the proposed development and outline the City approval process (City review, public notification, Planning Commission approval, plans on record, etc.). The proposed development shall accept the conveyance of the existing offsite drainage.
  - 31. Prior to the issuance of the grading permit the applicant/developer shall provide Non-Interference Letters (NILs) from all applicable utility agencies for all utility easements located within the areas subject to grading activities. All such documents shall be subject to review and approval by the City Engineer.
  - 32. Prior to issuance of the grading permit the Applicant/Developer shall submit a soils and geologic report to address the soil's stability and geological conditions of the site.
  - 33. The demolition or relocation of all public improvements (street lights, signs, trees, vaults, catch basins, hydrants, etc.) due to the proposed project construction must be coordinated and agreed upon by the appropriate City departments, shall be designed per City standards and applicable ADA requirements, and must be reviewed and approved by the Engineering Division of the Public Works Department.
  - 34. Applicant/Developer shall identify the existence of all City utilities that may be in conflict with the development and submit protection measures to the City Engineer for those City utilities.
  - 35. If future placement of permanent structures conflicts with location of existing public utilities (water, sewer and storm drain), then improvement plans proposing the relocation or abandonment of identified utilities must be submitted, reviewed and accepted by the Public Works Department. No public utility infrastructure shall be removed or modified as part of the onsite demolition plan approved by the Building and Safety Department.
  - 36. Applicant/Developer shall implement stormwater Good Housekeeping Best Management Practices (BMPs) for the site to ensure that pollutants are not discharged to the municipal storm drain system during construction and throughout occupancy.



37. Owner is responsible for the compliance with the special annual levy assessment derived from the current inclusion of the project site into the City's Street Lighting District and Landscaping Maintenance District. The Developer shall disclose to any future buyers that the property is within the City of Pomona Lighting and Landscaping District and is subject to annual special taxes
38. Prior to issuance of the building permits Applicant/Developer is responsible for paying the project's impact fees for traffic signals and control devices, road and highway improvements, public safety improvements and parks.
39. Prior to the issuance of the building permits Applicant/Developer is responsible for the payment of all City water and sewer connection fees and shall make proof of payment of the Los Angeles County Sanitation District fees associated with the proposed development.
40. Prior to issuance of the building permits Applicant/Developer is responsible for paying the development tax associated with the proposed project.
41. The final improvement plans, as shown on the Mylar, shall be provided to the City in both hard copy and electronic in AutoCAD v. 2010. Following construction and prior to acceptance of the improvements by the City, the project engineer shall provide hand drafted "AS BUILT" corrections on the original approved Mylars of the final constructed improvements to the satisfaction of the City Engineer. A corrected "AS BUILT" plan shall also be provided to the City on disk in AutoCAD v. 2010 and .pdf formats.
42. The plans shall be submitted on 24" x 36" sheet size with a standard City title block, and must correctly identify the property owner, address, legal description, property lines, street centerline, curb-lines, existing and proposed utilities (water, sewer, and storm drain), utility easements, and the public right-of-way areas with dimensions.

#### **Public Works Improvements Permit**

43. All work in the public right-of-way and City easements is subject to review, approval, and permitting requirements of Public Works Department.
44. Prior to the issuance of the building permits, Applicant/Developer shall post surety bonds for the proposed public improvements, including but not limited to: driveway approach, street paving, water, sewer and storm drain improvements.
45. Permittee shall procure and maintain throughout the period of the Permit the following policies of insurance:
  - a. Commercial General Liability;
  - b. Automobile Liability;
  - c. Worker's Compensation as required by the State of California;

Note: The Commercial General Liability and the Automobile Liability policies shall include the City of Pomona as additional insured.

46. Permittee shall pay fees associated with and possess the City of Pomona Business License.
47. Changes and additions to the proposed work, including but not limited to detail plans for street improvement work, water plans and/or other work associated with this project and due to developer's or City's request shall require additional conditions to be completed by the applicant.

#### **Los Angeles County Fire Department**

48. Verification for compliance of the Fire Department "Access Requirements" and Water Systems requirements will performed by the Pomona Building Safety Department prior to building permit issuance.
49. Provide a minimum unobstructed width of 20 feet, exclusive of shoulders, except for approved security gates in accordance with Section 503.6, and an unobstructed vertical clearance "clear to sky" Fire Department vehicular access to within 150 feet of all portions of the exterior walls of the first story of the building, as measured by an approved route around the exterior of the building. Fire Code 503.1.1 & 503.2.1
50. Fire Department apparatus access shall be extended to within 150 feet of all portions of the exterior walls of any future buildings or structures.
51. All on-site Fire Department vehicular access roads shall be labeled as "Private Driveway and Fire Lane" on the site plan along with the widths clearly depicted on the plan. Labeling is necessary to assure the access availability for Fire Department use. The designation allows for appropriate signage prohibiting parking.
52. Fire Department vehicular access roads must be installed and maintained in a serviceable manner prior to and during the time of construction. Fire Code 501.4
53. All fire lanes shall be clear of all encroachments, and shall be maintained in accordance with the Title 32, County of Los Angeles Fire Code.
54. The dimensions of the approved Fire Apparatus Access Roads shall be maintained as originally approved by the fire code official. Fire Code 503.2.2.1
55. Provide approved signs or other approved notices or markings that include the words "NO PARKING - FIRE LANE". Signs shall have a minimum dimension of 12 inches wide by 18 inches high and have red letters on a white reflective background. Signs shall be provided for fire apparatus access roads, to clearly indicate the entrance to such road, or prohibit the obstruction thereof and at intervals, as required by the Fire Inspector. Fire Code 503.3

56. A minimum 5 foot wide approved firefighter access walkway leading from the fire department access road to all required openings in the building's exterior walls shall be provided for firefighting and rescue purposes. Fire Code 504.1
57. Dead-end Fire Apparatus Access Roads in excess of 150 feet in length shall be provided with an approved Fire Department turnaround.
58. Retrofit the existing structures with fire sprinklers in lieu of the required access.
59. An approved automatic fire sprinkler system is required for the proposed buildings within this development. Contact the Fire Department Sprinkler Plan Check Unit at 323 890-4125 for submittal requirements and review prior to installation.

**SECTION 5.** The City Clerk shall attest and certify to the passage and adoption of this resolution and it shall become effective immediately upon its approval.

**APPROVED AND ADOPTED THIS 20<sup>TH</sup> DAY OF MAY 2019.**

**ATTEST:**

**CITY OF POMONA:**

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Rosalia A. Butler, MMC, City Clerk

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Tim Sandoval, Mayor

**APPROVED AS TO FORM:**

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Christi Hogin, Interim City Attorney

STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES  
CITY OF POMONA

I, ROSALIA A. BUTLER, MMC, CITY CLERK of the City of Pomona do hereby certify that the foregoing Resolution was adopted at a Regular Meeting of the City Council of the City of Pomona held on the 20<sup>th</sup> day of May 2019, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Pomona, California, this 20<sup>th</sup> day of May 2019.

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Rosalia A. Butler, MMC, City Clerk