



AGENDA

CITY OF SEASIDE
PLANNING COMMISSION

REGULAR MEETING
COUNCIL CHAMBER
440 Harcourt Avenue
Wednesday, November 8, 2017
7:00 PM

PLEASE TURN OFF YOUR CELL PHONES UPON ENTERING THE MEETING

1. **CALL TO ORDER**

2. **ROLL CALL - ESTABLISHMENT OF QUORUM**

John Owens	Chair
Michael Lechman	Vice Chair
Keith Dodson	Commissioner
Denise Ross	Commissioner
Arlington La Mica	Commissioner
Michael Spalletta	Commissioner
Ian Oglesby	Commissioner

3. **REVIEW OF AGENDA**

If there are any items that arose after the 72-hour posting deadline, this is the point in the meeting where a vote may be taken to add the item to the agenda. (A 2/3-majority vote is required).

4. **PUBLIC COMMENT**

Members of the public wishing to address the Planning Commission on matters within the jurisdiction of the City of Seaside, but not on this agenda, may do so during the Public Comment period for up to three minutes. Public Comments on specific agenda items are heard under that item. For the public record, please state your name.

5. **APPROVAL OF MINUTES**

6. **BUSINESS ITEMS**

A. FENCE EXCEPTION APPLICATION NO. FE-17-01: BRETT NIELSEN, PROPERTY OWNER, IS REQUESTING A FENCE EXCEPTION TO ALLOW A FIVE-FOOT THREE-INCH FENCE WITHIN THE REQUIRED 15-FOOT FRONT YARD SETBACK LOCATED AT 1808 FLORES STREET IN THE RS-12 (SINGLE FAMILY RESIDENTIAL) ZONING DISTRICT (APN# 012-792-002) CONTINUED FROM THE OCTOBER 25, 2017 PLANNING COMMISSION MEETING.

PURPOSE: The Planning Commission will be reviewing the draft Resolution denying Fence Exception Application No. FE-17-01 based on the motion of intent the Planning Commission adopted at its meeting on October 25, 2017.

RECOMMENDATION: City staff recommends that the Planning Commission consider the draft Resolution that has been prepared to support the motion adopted by the Planning Commission to deny Fence Exception Application No. FE-17-01 based on the findings and evidence contained therein. The draft Resolution is provided as Attachment 1 to the staff report.

7. REPORTS FROM COMMISSIONERS

8. REPORTS FROM STAFF

9. ADJOURNMENT

Next Regularly Scheduled Meeting:
November 22, 2017
Seaside City Hall
7:00 PM

The City of Seaside is committed to providing accessible facilities and accommodating people with disabilities in all of its services programs and activities. If special considerations are needed by any person to fully participate in this meeting, they are asked to contact the City Clerk at 899-6707 no fewer than two business days prior to the meeting to allow reasonable arrangements. The City Council chamber is equipped with a portable microphone and assisted listening devices are available at all meetings.

City Council Meetings that are held in the City Council Chambers are broadcast live to all Seaside residents on Comcast Channel 25 and U-verse Channel 99. Meetings are also available through live streaming at:
<http://cyp.telvue.com/player?id=T01629&video=52314&noplaylists=1&width=400&height=300>
Videos of past meetings are available on demand through the City's website: <http://www.ci.seaside.ca.us>

Agenda-related writings or documents provided during public meetings are available for public inspection during the meeting or from the office of the City Clerk. This agenda is posted in compliance with California Government Code Section 54954.2(a) or Section 54956.

Attachment 1

RESOLUTION NO. 17-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SEASIDE, STATE OF CALIFORNIA, DENYING FENCE EXCEPTION APPLICATION NO. FE-17-01 TO ALLOW FOR A MASONRY WALL FENCE WHICH EXCEEDS THE MAXIMUM HEIGHT REQUIREMENTS OF ZONING CODE SECTIONS 17.30.020.B.1 WITHIN THE REQUIRED FRONT YARD SETBACK LOCATED AT 1808 FLORES STREET (APN # 012-792-002).

WHEREAS, the proposed project requires approval by the Planning Commission, and based on the fact that a portion of the masonry wall fence has already been constructed; and

WHEREAS, it is the responsibility of the Planning Commission to consider and weigh the merits of the application and public input in relation to the policies, standards and intent of the Seaside General Plan and Seaside Municipal Code in relation to the proposed Fence Exception; and

WHEREAS, the Planning Commission considered written information concerning the proposed exception at a duly noticed public hearing held on October 25, 2017 and November 8, 2017; and

WHEREAS, the project is exempt from environmental review subject to Class 3, Section 15303(e): New Construction of Small Structures:

Evidence: Approval of the proposed fence exception would result in the retention of an existing five-foot four-inch masonry wall fence.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission adopts the following findings for the denial of Fence Exemption Application No. FE-17-01:

1. Physical hardships do not exist based upon unique or unusual topographic conditions or structure location.

Evidence: The parcel does not contain sufficient cross slope or other unique or unusual topographic conditions, irregular lot size, or building placement to establish a physical hardship to justify the issuance of a Fence Exception.

Evidence: The grade of the soil on the project site can adequately be retained with a fence that would comply with the maximum height of four feet as measured from the lowest grade of the fence at the public sidewalk. The photographs provided by the applicant show the soil at a height of 28-inches, 20-inches below the four-foot maximum height limit.

2. A general safety hazard to City residents and/or the general public would be created.

Evidence: The location of the fence would interfere with the adequate visibility of pedestrians as the height of the fence will exceed the maximum four-foot height limit within the 15-foot by 15-foot line of site triangle at the driveway and public sidewalk.

3. The fence will impair visibility at the traffic safety area of the driveway intersection with the public sidewalk.

Evidence: The location of the fence would interfere with the adequate visibility of pedestrians as the height of the fence will exceed the maximum four-foot height limit within the 15-foot by 15-foot line of site triangle at the driveway and public sidewalk.

4. The fence would not be compatible with the surrounding neighborhood.

Evidence: The overall height of the fence creates an ominous appearance that would not establish an open appearance to the front façade and front entry of the dwelling that would be established with a fence of four feet as measured from the lowest grade at the public sidewalk.

NOW BE IT FURTHER RESOLVED, the Planning Commission hereby denies Fence Exception Application No. FE-17-01 based on the project photographs and public testimony that has been reviewed and received by the Planning Commission on this fence exception request.

AYES:

NOES:

ABSENT:

ABSTAIN:

John Owens, Chairperson

ATTEST:

Planning Commission Secretary



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 6.A.

TO: Planning Commission

BY: Rick Medina, Senior Planner

DATE: October 25, 2017

SUBJECT: **FENCE EXCEPTION APPLICATION No. FE-17-01: BRETT NIELSEN, PROPERTY OWNER AND APPLICANT, IS REQUESTING A FENCE EXCEPTION TO ALL FOR THE CONSTRUCTION OF A FIVE-FOOT FOUR-INCH FENCE WITHIN THE REQUIRED 15-FOOT FRONT YARD SETBACK AND 15-FOOT BY 15-FOOT DRIVEWAY LINE OF SITE WHICH EXCEEDS THE MAXIMUM HEIGHT OF FOUR FEET. THE PROJECT SITE IS LOCATED AT 1808 FLORES STREET IN THE RS-12 ZONING DISTRICT (APN 012-792-002) . THE PROJECT IS CATEGORICALLY EXEMPT CLASS 3, SECTION 15303(e) FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.**

PURPOSE

In accordance with Section 17.30.020.F of the Seaside Municipal Code, fence exception applications are subject to the review and approval by the Planning Commission.

RECOMMENDATION

City staff recommends that the Planning Commission accept public comment and consider the following actions:

1. Adopt the Fence Exception in accordance with the Draft Resolution provided as Attachment 1; or
2. Adopt Motion denying the application with direction to City staff to return with a Resolution containing findings and evidence in support of the denial for final action at the November 8, 2017 Planning Commission Meeting.

BACKGROUND

The project site is approximately 3,750 square feet in area and is developed with a 1,008 square

foot three bedroom, two-bath house with an attached one-car garage. Adjacent land uses consist of one-story single-family residential dwelling units. A Location Map is provided as Attachment 2. An Aerial Photo is provided as Attachment 3. Site Photographs are provided as Attachment 4. The Applicant's Statement is provided as Attachment 5. Photographs of the fence are provided as Attachment 6. The fence photographs show the following measurements:

1. A pink line which measures the grade of the property at 28-inches behind the masonry wall; and
2. A blue line which measures where the 48-inch (Four-Foot) height limit from the sidewalk (Lowest Grade).

The as-built masonry wall construction is at five-feet four-inches (64-Inches) as measured from the base of the sidewalk which is one-foot four-inches above the maximum four-foot height limit height as measured from the lowest grade. The property owner was notified by City on August 10, 2017 that a building permit would be required for the new fence that was built to replace a wood picket fence. The applicant had indicated that that were reconstructing the front yard fence in order to maintain the sand on their property and provide at least three-foot tall fence barrier above the grade within their property for safety and security. A photo of the previous wood fence is provided as Attachment 7. The previous fence consisted of a 28-inch tall masonry base with a two-foot eight-inch wood picket fence on top. The previous fence was constructed under the City's former fence regulations which based the maximum four height limit within a front yard setback from the highest grade. The fence standards were amended in 2006 to now require the maximum height to be taken from the lowest grade where a fence is constructed between varying grades

ENVIRONMENTAL REVIEW

This project is Categorically Exempt from the California Environmental Quality Act pursuant to Section 15303(e): New Construction of Small Structures. Class 3 categorical exemptions consist of the construction of small structures including fences.

Evidence: Approval of the proposed fence exception would result in the construction of a new five-foot four-inch high masonry wall fence on Flores Street. A fence consists of a minor improvement that is categorically exempt from CEQA.

STAFF ANALYSIS

The applicant's statement in support of a fence exception is provided as Attachment 5 and provides the following reasons to support the approval of the fence exception.

1. Due to the sloping front yard, a higher retaining wall was needed to prevent sand from shifting onto the sidewalk; and
2. Maintaining a fence height of at least three feet above the grade on the project site will provide necessary safety to prevent their grandchild and other persons from potentially falling 48-inches onto the sidewalk; and
3. For aesthetic reasons, they would like to keep the fences along Flores Street at the same height as the neighboring properties to the north and south.

STAFF ANALYSIS AND FINDINGS

Fence exception rules are listed under SMC Section 17.30.020.F.1 and 2. The process mandates that where a physical hardship exists because of unique or unusual topographic conditions or structure location, the commission may approve a fence exception subject to the following

findings:

- A general safety hazard to City residents and/or the general public would not be created.
- A traffic-related safety hazard would not be created.
- The fence or wall will not impair visibility at an intersection or traffic safety visibility area.
- The fence or wall will not obstruct vision from an adjoining driveway.
- The fence or wall is compatible with the surrounding neighborhood.

Traffic Safety

The Public Works has reviewed this application and has expressed concern related to how the solid masonry wall is preventing a clear unobstructed view of pedestrians the 15-foot by 15-foot line of site traffic safety visibility area at the driveway. The Public Works Department finds that the distance of the project drive approach from the four-way controlled intersection at San Pablo Avenue and Flores Street will not affect nor impair visibility of vehicles from this intersection.

Based on the visual obstruction of pedestrians, City staff is recommending the following conditions to provide visibility and audible sensor for pedestrians:

1. Installation of a convex mirror at the northwest corner of the driveway to provide visibility of pedestrians backing out of the driveway and visibility of the vehicle for pedestrians walking on the sidewalk.
2. Installation of an audible sensor setback three feet from the back of sidewalk to alert pedestrians of a vehicle backing out of the driveway.

Physical Hardship

A physical hardship (e.g. irregular lot size, slope, building placement, utilities) exists when there are conditions that would preclude the property owner from the reasonable use of their property if the fence exception is not granted. City staff finds that the slope within the front yard is relatively steep and there exists a condition where the sand on the site must be retained to prevent the sand from shifting into the public right-of-way.

Neighborhood Compatibility

The dwellings on the east side of Flores Street have been graded so that the housing pads is sitting above the street. On the project site, the housing pad is approximately six-feet above the sidewalk. When a taller fence is constructed in front a dwelling that is at a grade with the sidewalk, the fence then typically creates a stark, massive contrast to the view of the site from the public right-of-way and adjoining properties. The pattern of development that has occurred along the east side of the 1800 block of Flores Street has been to create retaining walls with fencing on top for safety and privacy while still maintaining. The height of the as-built wall is consistent with the height of the existing conditions. Furthermore, the height of the proposed as-built wall and the existing walls does not present a stark contrast to the public right-of-way due to the dwellings behind the fences maintaining visibility for visual interest. Planning Condition #4 will require

design review approval of paint treatment and use of other material to enhance the appearance of the wall. Public comment letter in support of the fence exception is provided as Attachment 8.

CONCLUSION

Based on the above analysis, staff recommends approval of Fence Exception Application No. FE-17-01 with the conditions as noted in the attached Draft Resolution.

FISCAL IMPACT

ATTACHMENTS

- 1.
 1. Attachment 1 - Draft Resolution
 2. Attachment 1 - Exhibit A
 3. Attachment 2 - Location Map
 4. Attachment 3 - Aerial Photo
 5. Attachment 4 - Site Photos
 6. Attachment 5 - Applicant Statement
 7. Attachment 6 - Wall Height Measurements
 8. Attachment 7 - Previous Fence Construction
 9. Attachment 8 - Public Comment Letter
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Attachment 1

PLANNING COMMISSION RESOLUTION NO. 17-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SEASIDE, STATE OF CALIFORNIA, APPROVING FENCE EXCEPTION APPLICATION NO. FE-15-01 TO ALLOW FOR A MASONRY WALL FENCE WHICH EXCEEDS THE MAXIMUM HEIGHT REQUIREMENTS OF ZONING CODE SECTIONS 17.30.020.B.1 WITHIN THE REQUIRED FRONT YARD SETBACK LOCATED AT 1808 FLORES STREET (APN # 012-792-002).

WHEREAS, Brett and Colleen Niesen, property owner, and applicant, have applied for approval of a Fence Exception permit to allow for a five-foot four-inch masonry wall fence located within the 15-foot front setback and 15-foot by 15-foot driveway line site visibility triangle of an interior lot; and

WHEREAS, the proposed project requires approval by the Planning Commission, and based on the fact that a portion of the masonry wall fence has already been constructed; and

WHEREAS, it is the responsibility of the Planning Commission to consider and weigh the merits of the application and public input in relation to the policies, standards and intent of the Seaside General Plan and Seaside Municipal Code in relation to the proposed Fence Exception; and

WHEREAS, the Planning Commission considered written information concerning the proposed exception at a duly noticed public hearing held on October 25, 2017; and

WHEREAS, the project is exempt from environmental review subject to Class 3, Section 15303(e): New Construction of Small Structures:

Evidence: Approval of the proposed fence exception would result in the retention of an existing five-foot four-inch masonry wall fence.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission adopts the following findings for the denial of Fence Exemption Application No. FE-17-01:

Finding No. 1

Physical hardships exist based upon unique or unusual topographic conditions or structure location.

Evidence: The lot contains sufficient cross slope in the front yard to establish a unique topographic conditions to establish a physical hardship to justify the issuance of a Fence Exception.

Finding No. 2

A general safety hazard to City residents and/or the general public would not be created.

Evidence: Conditions of approval will be incorporated into the fence design to include a convex mirror at the northwest corner of the site to enable visibility of pedestrians and an audible sensor will be installed three feet in back of the drive entrance to provide audible sound to alert pedestrians of vehicles backing out while walking on the sidewalk.

Finding No. 3

The granting of the fence exception will not result in a detrimental impact to the general health, safety, and welfare of the community and the surrounding property owners.

Evidence: The construction of the masonry wall fence will be located within a portion of the site that will not impair visibility of vehicles or pedestrians at a driveway on the subject parcel or an adjoining parcel based on conditions of approval; and that will not alter or materially impact the enjoyment and use of other surrounding property owners from the use of their land.

Finding No. 4

The issuance of the Fence Exception will be in compliance with the General Plan and Zoning Ordinance of the City of Seaside.

Evidence: The granting of the masonry wall fence exception will not grant a right of special privilege not enjoyed by other property owners similarly situated in that there are special circumstances that are based on physical characteristics associated with the slope of the front yard and the ability to mitigate traffic safety related to pedestrian accessibility within the public right-of-way.

BE IT FURTHER RESOLVED, the City Council hereby grants Fence Exception Application No. FE-17-01 subject to the following terms and agreements:

Planning:

1. Fence Exception Application No. FE-17-01 must be constructed in compliance with the photographs stamped "Received City of Seaside August 28, 2017 Seaside Community Development". The fence exception photographs are provided as Exhibit "A".
2. A convex mirror shall be installed near the northwest corner of the driveway for visibility of pedestrians and vehicles.
3. An audible sensor shall be installed three feet in back of the sidewalk adjacent to the driveway to provide an audible alert to pedestrians on Flores Street of backing out movements.

4. The proposed wall design shall be subject to Design Review approval by the Board of Architectural Review for the final paint selection and/or other treatments to ensure that the fence will provide a high quality design.

Public Works

1. An Encroachment Permit will be required prior to the initiation of any work within the public right-of-way.
2. Prior to final building inspection, any curb, gutter and sidewalk damaged during construction of the fence shall be replaced by a licensed concrete contractor in conformance with the most current applicable engineering standards, and upon the prior issuance of an Encroachment Permit from the Seaside Public Works Division, located at City Hall, 440 Harcourt Avenue, Seaside, CA, (831) 899-6825.

Standard:

1. The Fence Exception approval is subject to revocation procedures contained in S.M.C. Section 17.69.060 in the event any of the terms of this approval are violated or if the uses onsite are conducted or carried out in a manner so as to adversely affect the health, welfare or safety of persons residing or working in the neighborhood.
2. The applicant agrees as a condition and in consideration of the approval of this discretionary permit that it will defend, indemnify and hold harmless the City of Seaside or 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 this approval. The applicant will reimburse the City for any court costs and attorney's fees, which the City may be required by a court to pay as a result of such action. City may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. The City shall promptly notify the applicant of any such claim, action, or proceeding, and the City shall cooperate fully in the defense thereof.
3. The permit shall have no force or effect unless and until accepted, and the terms thereof agreed to, in writing, by the applicant and property owner within 15 days from the date of its approval.
4. Project approval will become null and void if a building permit is not obtained within one (1) year from the date of approval to begin construction on the project.
5. For purposes of assuring compliance, the applicant, agents, representatives or their assignees agree not to deny or impede access to the subject property by City employees in the performance of their duties.

NOW BE IT FURTHER RESOLVED, the Planning Commission hereby approves Fence Exception Application No. FE-17-01 on October 25, 2017 by the following vote.

AYES:

NOES:

ABSENT:
ABSTAIN:

John Owens, Chairperson

ATTEST:

Planning Commission Secretary

RECEIVED BY
CITY OF SEASIDE

AUG 28 2017

COMMUNITY
DEVELOPMENT



Attachment 2

Location Map

Project Site: 1808 Flores Street



Blue Triangle – 15-foot by 15-foot Driveway
Line of Site

Red Line – Area of 15-Foot Front Yard Setback



Yellow Line – Proposed Fence

Green Line – Property Boundary



View from Flores Street



View from Flores Street looking south



View of wall section adjacent to southwest corner of driveway



View of wall looking south on the sidewalk

Resource Management Services Planning Division:

September 22, 2017

Brett Nielsen
1808 Flores St.
Seaside Ca, 93955

Fence Exception Application No. FE-17-01

To whom it may concern with the Planning Commission of the City of Seaside,

My name is Brett Nielsen and I have resided at 1808 Flores Street since 1997. I would have loved to be here personally to be involved in this matter but I had to leave the state for business. I want to say thank you for taking the time to be here in the matter of the retaining wall.

Our house was built on a western facing sand dune in 1952. We inquired about an estimate to have the sand removed and the cost was \$25,000 in 1997. So as an alternative, to manage and prevent further damage, we placed rail road ties with wood fencing on top in our back yard and side yard so that our back neighbor's sand would not come into our yard and our sand would not go into our side neighbor's yard. Now at this time our back neighbor's sand is coming through the wood fence.

When we move into this house there was a 28 inch retaining wall in the front yard already built and even then had reached its limits. So in the front yard we placed a 10 inch solid border on the old fence. That helped for a few years but the sand continued to shift. In May of 2016 we had to have our house tented for termites. Our front and side fencing had also come under sever termite damage to which you can still see on our side fencing.

We went with concrete and stucco fencing to match many of our neighbors and to match the look of our home. We went with the same height as the fencing that the house was originally built with. One of our main concerns is to retain the sand and prevent further damage. But more importantly, if we have to cut the wall we will only have 18" from the inside. I bring this up because our grandson plays out front and if he falls over the edge he will be falling 48 inches to the sidewalk. 48" above the sidewalk is a great height

for level lots, but for those of us that have slanted lots we need to have something to contain our yards.

I am sure by now you know that we would love to save our fence. I want to thank you again for your time in this matter.

Sincerely,

Brett Nielsen

Attachment 6

Delineation of Fence Heights in relation to the sidewalk grade and project site grade



Pink Line – Grade of Project Site behind wall

Blue Line – Four Foot wall height as measured from the sidewalk

Attachment 7

Previous Fence Construction



Image captured Apr 2015 © 2017 Google United States

1820 Flores Street
Seaside, CA 93955-3922
October 2, 2017

City of Seaside
Planning Division
440 Harcourt Avenue
Seaside, CA 93955

SUBJECT: **Fence Exception Application No. FE-17-01** for Brett & Colleen Nielsen

Sir,

It has come to my attention that Brett and Colleen Nielsen have requested approval of a Fence Exception for the property located at 1808 Flores Avenue, Seaside, CA, to construct a 5'4" fence in their front yard.

As I understand it the **Fence Exception Application No. FE-17-01** is requesting permission to place a fence between our two properties.

If this is the case, I ask that they be granted permission to place a fence there. Having worked in the field of construction myself, and having observed the placement of the footers for the fence posts, which are the proper depth, are up to code, and are very well placed, I don't see any problem with what they are trying to do; and support/agree with you granting their request.

If you need to contact me reference this request please feel free to do so.

Sincerely,


Edward Wilson