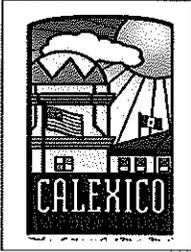


**AGENDA
ITEM**

8



CITY COUNCIL AGENDA STAFF REPORT

DATE: June 21, 2017

TO: Mayor and City Council

APPROVED BY: Armando G Villa, City Manager

PREPARED BY: Ralph Morales, Building/Planning Manager
Mark Vasquez, Associate/City Planner

SUBJECT: **Public Hearing** - Adoption of Ordinance approving Zoning Ordinance Text Amendment No. 2017 - __ to Municipal Code Section 15.32.050, Construction on Owner's Property - fences (city-wide)

=====

Recommendation:

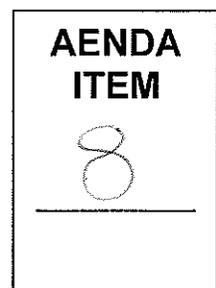
Staff requests that the City Council conduct a public hearing and receive public input. Introduce and conduct first reading by title only and waive first reading of Ordinance No. 2017 - __ adopting the following:

- (1) Zoning Ordinance Text Amendment No. 2017 - __. An Ordinance of the City Council of the City of Calexico, California, Amending Section 15.32.050 (Construction on Owner's Property-fences) of the Calexico Municipal Code.

Background and Discussion:

The Planning Commission reviewed and recommended approval of an Ordinance to the City Council on May 8, 2017 after conducting a public hearing. The proposed Ordinance was initiated by the City in order to address issues related to the construction and placement of fences in the city's residential neighborhoods. The proposed Ordinance makes minor modifications to Code Section 15.32.050, Construction on Owner's Property - fences.

No negative comments concerning the proposed text amendments were received from the public when the public hearing was opened.



Currently, fences are allowed to be built entirely on property line which is normally 5'-0' from back of the sidewalk. The code also states that under special circumstances, a portion of the fence may encroach inside the public right-of-way with review and approval of an encroachment permit issued by the Engineering Division. Encroachment permits previously issued by the engineering division has made it possible for the placement of fences within city right-of-way over the years. This practice is not recommended to be continued due to extreme liability to the city. The premise behind an encroachment permit is that it is not a permanent solution, but a special consideration to absolve the city from liability. Allowing fences or permanent structures to be constructed in the city right-of-way is inconsistent with the basic principles of temporary encroachment. Continuing to allow fences in the public right-of-way gives the illusion that the adjacent property owner has now gained additional land. In some instances, many residents may not be aware of the fact that they do not own this portion of city right-of-way after the block wall is allowed.

Analysis and Discussion

This item was considered by the Planning Commission for recommendation to the City Council with the following two options provided. The options are as follows:

- 1) Per the city's current provisions, fences are allowed to be installed on city right-of-way with review & approval of an encroachment permit by engineering.

- 2.) Allow fences on property line only, **with no exceptions.**

The Planning Commission selected Option #2 which allows fences to be located on property line only, with no exceptions. (see Planning Commission Resolution UA2017- 02, **Exhibit B**)

Fiscal Impact: None

EHXIBITS

- A. **Planning Commission Minutes from May 8, 2017**
- B. **Planning Commission Resolution UA2017-02**

ATTACHMENT

1. **CITY COUNCIL ORDINANCE NO. 2017 - __ An Ordinance of the City Council of the City of Calexico, California, Amending Section 15.32.050 (Construction on owners property – fences)**

Exhibit A

THE PLANNING COMMISSION OF THE CITY OF CALEXICO MET IN REGULAR SESSION ON THE 8TH DAY OF MAY, 2017 AT 6:30 P.M. AT THE CITY OF CALEXICO FERNANDO "NENE" TORRES COUNCIL CHAMBERS, 608 HEBER AVENUE, CALEXICO, CA THE DATE, HOUR AND PLACE DULY ESTABLISHED FOR THE HOLDING OF SAID MEETING.

CALL TO ORDER:

The meeting was called to order at 6:35 p.m. by Chairperson Felix and those present were led in the Pledge of Allegiance by Commissioner Salazar.

ATTENDANCE:

Present: Josie B. Felix, Chairperson
Mary Salazar, Commissioner
Alex Perrone, Commissioner
Ulises Cardenas, Commissioner

Absent: Cesar Rodriguez, Commissioner

ROLL CALL:

APPROVAL OF AGENDA:

Motion was made by Comm. Perrone and seconded by Comm. Salazar to approve the agenda as presented. Motion passed unanimously.

PUBLIC COMMENTS (NON AGENDIZED ITEMS - 3 MINUTES)

None

CONSENT ITEMS:

Approval of Regular Planning Commission Meeting Minutes for April 25, 2016.

Motion was made by Comm. Perrone and seconded by Comm. Salazar to approve minutes of February 27, 2017, as presented and to approve minutes of April 10, 2017, with the following corrections: Item 2, page 4, paragraph 2, the wording does not make sense. Chair Felix does not know what staff was trying to say. Mark Vasquez will add, "must comply", to the sentence to make it a complete and correct sentence. Also paragraph 8 needs to be removed from there and placed under informational item, since it is not part of the motion. Motion passed unanimously.

PUBLIC HEARING CONTINUED:

Zoning Ordinance Text Amendment No. 2017-01. This proposal is to consider minor modifications to Code Section 17.03.120 – Property Development Standards, R Zones – Special Requirements (B)(9)

The Zoning Ordinance Text Amendment as proposed is exempt from environmental review pursuant to Section 15061 (B)(3) – Review of Exemption, per CEQA guidelines.

Chairperson Felix opened public hearing at 6:40 p.m. no public in attendance. Closed public hearing at 6:41 p.m. No comments made for or against.

Ralph Morales gave a brief presentation on the Zoning Ordinance Text Amendment to the Calexico Municipal Code (Garage Enclosures on Corner Lots) in residential zones city-wide.

Mr. Morales advised the commission he would like to show them a slide show of pictures taken by staff on examples of some corner properties.

He explained that according to a Planning Commission staff report dated August 13, 2007, and Resolution 2000-34. Garage enclosures are currently allowed along street runs subject to the provisions of providing replacement covered parking behind the front yard setback. The resolution itself appears to have been a compromise to address the concerns from both residents and contractors over the years. The proposal and resolution, however, were never properly approved by the City Council.

This was all part of an attempt to amend the city's ordinance dating back to the 90's to allow relief from meeting the requirement of replacement covered parking located entirely behind the front yard setback area when enclosing the garage. Resolution 2000-34 allowed for the placement of carports half (1/2) the distance into the required front yard setback area. For example, if the front yard setback measured 20 feet, the carport structure would be allowed to encroach 10 feet into the front setback area. Since 2000, the resolution has served as a guide which has been inadvertently applied to garage enclosure projects. This has resulted in concrete driveways leading to new parking areas designed across the entire front yard area which is not very appealing to the eye.

The issue was examined again 2008, by the Planning Director at the time, looking closely at the following options:

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1. Allow garage enclosures without the requirement of providing replacement cover parking.
2. Provide specific criteria under which replacement covered parking could be allowed $\frac{1}{2}$ the distance into the front yard setback area as described in Resolution 2000-34
3. Continue to allow garage enclosures & construction of carports behind the front yard setback.

On January 14, 2008, a public hearing was held and Planning Commission Resolution 2008-02 which provided adequate flexibility to encroach $\frac{1}{2}$ the distance into the front yard setback was adopted by the Planning Commission and recommended to City Council.

The issue of garage enclosures on corner lots, however, has never been discussed at length or considered over the years.

Consequently, when some applicants apply for a garage enclosure on a corner lot, they do not want to build the replacement covered parking for two cars which includes construction of a concrete driveway across the front yard in order to preserve mature landscaping and maintain property values. To meet the replacement covered parking requirement there have been requests to use rear patio areas constructed previously in most cases off the dining room. With approval of an encroachment permit issued by the engineering division to construct a second driveway off the side yard tis is possible to do. The rear patios, however, are not constructed wide enough to accommodate two cars placed side by side, therefore, tandem parking, (one car behind the other), is inevitable while at the same time very unsafe when it comes to exiting.

Staff has allowed rear patio areas to serve as replacement covered parking, but would like to discuss the issue with Planning Commission. These areas are not being used in part because of the fact that the main driveway is still left open leading to the garage and cars can continue to park in the uncovered front driveway. To address this issue the following options are provided for your consideration:

1. For residents who would like to use side yard as driveway entrance into rear yard patio to meet requirement of replacement covered parking, the approach and driveway at the front of the house shall be removed and replaced with curb, gutter, and sidewalk across the front no longer providing access. "CATCH 22" - using side yard as primary driveway to rear yard patio and blocking off front driveway access, cars may tend to park in street.
2. Continue to allow the use of rear patio as replacement covered parking with city approval & leave driveway access to front of house open under the city's current provisions.
3. Don't allow rear parking at all.

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4. Require review and approval of a CUP for garage enclosures under certain circumstances on corner lots with conditions for mandatory construction of front carport or other variation which meets city requirements. (CUP fee - \$3,354.00)

STAFF ANALYSIS AND DISCUSSION

Garage Enclosures on corner lots

The options to address garage enclosures on corner lots were described and examples shown in the form of a power point presentation. It is critical that Planning Commission understand and discuss each option in detail so that the ordinance may be amended as necessary.

RECOMMENDATIONS

It is recommended that the Planning Commission continue the public hearing, discuss what has been presented in public, close the public hearing and consider recommending Option #3 of the staff report along with Resolution No. 2017 - ___ to the City Council.

Chairperson Felix opened for discussion from the Commissioners. Commissioner Salazar questioned staff's recommendation of Option #3 being different from Option #1 being recommended in the staff report submitted. Ralph Morales, explained there was a typographical error in the staff report, it should read Option #3.

Commissioner Perrone had an issue with the CUP cost being very high for the homeowners to absorb after spending monies on the construction itself. He asked staff if the \$3,354.00 was the same cost for all CUPs. Ralph Morales explained that this CUP was a minor CUP and the other would be for a major CUP for construction on a big development. Staff did not have the cost on the major CUP.

Chairperson Felix had a question on Option #4, "other variation". She asked for further explanation on that from staff. Ralph Morales explained, "other variation", would mean other conditions which would have to be met. Not every project would be the same, it would depend on what the situation would be on the property, for example, if there was not enough setback or closing of a three car garage being closed. This would only apply on corner lots.

After further discussion, motion was made by Chairperson Felix to approve staff's recommendation of Option #3 along with Resolution No. 2017 - ___, seconded by Commissioner Cardenas. Vote to wit:

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AYES: Chairperson Felix, Commissioner Cardenas
NOES: Commissioner Perrone, Commissioner Salazar
ABSENT: Commissioner Rodriguez

Motion failed.

Commissioner Perrone made a motion to approve Option #2, "Continue to allow the use of rear patio as replacement covered parking with city approval & leave driveway access to front of house open under the city's current provisions." Along with Resolution No. 2017-___, seconded by Commissioner Salazar. Vote to wit:

AYES: Commissioner Perrone, Commissioner Salazar
NOES: Chairperson Felix, Commissioner Cardenas
ABSENT: Commissioner Rodriguez

Motion failed.

After some clarification on the various options available, Chairperson Felix made a motion to approve Option #4, along with Resolution No. 2017-___. Motion failed for lack of a second.

Commissioner Perrone made a motion, seconded by Commissioner Salazar to approve Option #2 along with Resolution No. 2017-___, with the following modifications: To leave it to city staff's discretion to make sure the replacement covered parking is done aesthetically for the subdivision where the project is going to take place, have some standards, to follow the integrity of the architecture of the surrounding houses in the subdivision. Vote to wit:

AYES: Commissioner Perrone, Commissioner Salazar, Chairperson Felix &
Commissioner Cardenas
NOES: None
ABSENT: Commissioner Rodriguez

Zoning Ordinance Text Amendment No. 2017-02. This proposal is to consider minor modifications to Code Section 15.32.050 – Construction on owner’s property. (Fences city-wide)

The Zoning Ordinance Text Amendment as proposed is exempt from environmental review pursuant to Section 15061 (B)(3) – Review of Exemption, per CEQA guidelines.

According to Section 15.31.050 of the Calexico Municipal Code, fences are currently allowed to be built entirely on property line which is normally 5’-0’ from back of the sidewalk. The code also states that a fence may be built inside the public right-of-way with review and approval of an encroachment permit issued by the engineering division. In 1996 the city attorney at the time, provided a written opinion regarding the ability of the city to allow residents to construct fences outside their property line within the city right-of-way. There was also a memo written by the building official to the city manager in 2000 clarifying his concerns regarding the construction of fences outside the property line or within city right-of-way.

The encroachment permit process has also made it possible for the placement of fences within the city right-of-way after review and approval by the engineering division. This has caused inconsistency throughout the city and many residents request placement of their fence inside city right-of-way to gain more area. In some instances, they may be unaware of the fact that the property line is 5’-0’ in from the back of the sidewalk. As a result, staff would like to discuss this issue with the Planning Commission and provide the following options for consideration:

1. Per the city’s current provisions allow fences to be installed on city right-of-way with review and approval of an encroachment permit by engineering.
2. Allow fences on property line only, **no exceptions.**

It is recommended that the Planning Commission receive the staff report, discuss what has been presented in public hearing and consider recommendation of Option #2 of the staff report along with Resolution No. 2017-___ for all residential zones in the City of Calexico to the City Council.

After some discussion, Chairperson Felix made a motion, seconded by Commissioner Perrone to approve Option #2, “Allow fences on property line only, no exceptions.” Along with Resolution No. 2017-___ for all residential zones in the City of Calexico. Vote to wit:

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AYES: Chairperson Felix, Commissioner Perrone, Commissioner Salazar &
Commissioner Cardenas
NOES: None
ABSENT: Commissioner Rodriguez

INFORMATIONAL ITEMS

The Planning Commission Attendance Record was presented to the Commissioners for review and consideration. The attendance record was acknowledged by all commissioners present.

STAFF COMMENTS

Ralph Morales advised he had called the commissioners about having a special public hearing for next week, but that has changed due to time constraints. The public hearing will take place as a regular meeting on May 22, 2017. This public hearing will be on the Cannabis. Meeting will take place at 6:30 p.m. The public hearing notice has been published in the local papers and it will also be placed on the City's web site as well as the Library's and Recreation's web site.

PLANNING COMMISSIONER COMMENTS

Commissioner Salazar stated she has called in for Ralph and the greeting on the phone stated Nick Servin's name and it was rather confusing. Ralph Morales apologized and advised it's been very busy and had not had time to change the greeting, but he would take care of that right away.

Chairperson Felix stated she wants to make sure that the commissioners are kept updated on the different city events and get invited since they want to be kept informed in case they get asked they know what's going on. Chairperson Felix also requested that the agenda be emailed to her. Mr. Morales advised staff would do both, deliver the hard copy and email the agenda as well.

Commissioner Salazar stated maybe it would be a good idea to have the commissioners confirm their attendance to the various city events/meetings that way no one is left guessing who is going to show up, or not.

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ADJOURNMENT:

There being no further business, the meeting was adjourned at approximately 7:48 p.m.

Chairperson, Josie B. Felix

Attest:

Alex Perrone, Secretary

**PLANNING COMMISSION RESOLUTION NO. 2017-02
FOR
ZONING ORDINANCE TEXT AMENDMENT NO. 2017-02
(Fences - construction on owner's property)**

WHEREAS, discussion was held on Zoning Ordinance Text Amendment No. 2017-02, on May 8, 2017, in the Council Chambers, 608 Heber Avenue., Calexico, California;

WHEREAS, public hearing was advertised according to law; and

WHEREAS, petition was initiated by the City of Calexico; and

WHEREAS, no one was present to object to the petition nor were any objections filed with the Commission; and

WHEREAS, proposed amendment is in conformity with the General Plan, map and text, and other development policies of the City; and

WHEREAS, proposed amendment is appropriate for the property or properties which will be affected by such action, with consideration given to access, size of parcel(s), relationship to similar or related uses and other considerations deemed relevant by the commission; and

WHEREAS, proposed amendment is necessary and proper at this time, and is not likely to be detrimental to property or residents affected by such action; and

WHEREAS, proposed amendment would not have a significant deleterious effect on the environment; and

WHEREAS, Zoning Ordinance Text Amendment No. 2017-02 is exempt from environmental review pursuant to Section 15061 (B)(3)- Review of Exemption per C.E.Q.A. Guidelines of 1970, as amended; and

WHEREAS, proposed amendment could not adversely affect the general health, safety and welfare of the community.

NOW, THEREFORE, be it resolved that the Planning Commission recommends approval of Zoning Ordinance Text Amendment No. 2017-02, amending Chapter 15.32-Fences, Section 15.32.050, Construction on owner's property, as follows:

Section 15.32.050 - Construction on owner's property.

Any fence or portion thereof, including projections and overhangs must be built entirely within the property line of the person(s) constructing the fence and outside of any public right-of-way, with no exceptions.

**PLANNING COMMISSION RESOLUTION FOR
ZONING ORDINANCE TEXT AMENDMENT NO. 2017-02
Page 1 of 2**

PASSED AND ADOPTED on May 8, 2017 by the

following vote

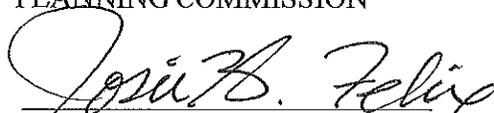
ROLLCALL: AYES Felix, Salazar, Cardenas, Perrone

NOES:

ABSENT: Rodriguez

ABSTAIN:

CITY OF CALEXICO
PLANNING COMMISSION


Josie B. Felix, Chairman

APPROVED AS TO FORM:

ATTEST:

Secretary-Director

ATTACHMENT 1

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALEXICO AMENDING
CHAPTER 15 AND CODE SECTION 15.32.050 - CONSTRUCTION ON OWNER'S
PROPERTY (FENCES) OF THE CALEXICO MUNICIPAL CODE**

WHEREAS, the Council ("Council") of the City of Calexico adopted an update to Chapter 17 of the Calexico Municipal Code {"Code"} in 1992; and

WHEREAS, the Council wishes to amend Section 15.32.052 Construction on owner's property (fences) of the Calexico Municipal Code; and

WHEREAS, the proposed amendment would address issues related to existing regulations and development standards for the location and placement of fences in the city's R-1 residential zones city-wide.

**NOW THEREFORE, THE COUNCIL OF THE CITY OF CALEXICO HEREBY
ORDAINS AS FOLLOWS:**

SECTION 1: Section 15.32.050 is hereby amended to read as follows:

Any fences or portion thereof, including projections and overhangs must be built entirely within the property line of the person(s) constructing the fence and outside of any public right-of-way, with no exceptions. ~~Unless the portion built inside the public right-of-way has been the subject of an application for an encroachment removal agreement, the fee for such an application has been paid, the application approved by the city engineer and an agreement has been properly executed.~~

SECTION 2. This ordinance shall take effect thirty (30) days after the date of its passage and adoption.

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remainder of the Ordinance. The Council hereby declares that it would have adopted this Ordinance, and each section, subsection, sentence, clause, phrase or portion hereof, irrespective of that fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 4. The City Clerk shall certify to the adoption of this Ordinance and shall cause this ordinance, or a summary thereof, to be published as required

PASSED, APPROVED AND ADOPTED this 21st day of June, 2017.

Armando Real, Mayor

ATTEST:

Gabriela Garcia
City Clerk

APPROVED AS TO FORM:

Carlos Campos, City Attorney

I, Gabriela Garcia, City Clerk of the City of Calexico and ex-officio Clerk of the Council, do hereby certify under penalty of perjury that the foregoing is a true and correct copy of Ordinance No. _____ that was duly and regularly introduced at a regular meeting of said City Council held on _____, 2017 and was adopted by said City Council at a regular meeting held on _____, 2017, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

Gabriela Garcia, City Clerk