
AGENDA ITEM SUMMARY / STAFF REPORT
FLORENCE PLANNING COMMISSION

ITEM NO: 5
Meeting Date: *January 25, 2022*

ITEM TITLE: *Resolution PC 22 02 DR 01 – Mast Brothers Barbed Wire Fencing*

OVERVIEW:

Application: The applicant is requesting approval use of barbed wire fencing on top of existing fencing as directed by the Oregon State Police. The addition of the barbed wire would increase the fence height by 1 foot 5 inches over the maximum 8-foot fencing allowance in the Highway Commercial District. FCC 10-34-5-C-5 permits exceptions to the maximum fence height if needed for safety or security purposes using a Type I, II, or III review.

Process and Review: This request to use three strands of barbed wire on an existing cyclone/chain link fence represents a Type III land use application requiring a quasi-judicial public hearing by the Planning Commission per FCC 6-1- 7-14.

The applicable criteria are listed in the “Applicable Criteria” section of the findings. Only code sections and comprehensive plan policies and appendices are policy considerations that may be applied in the decision-making process. Application materials, public testimony, previous approvals, and research that speak to the criteria may also be considered. In this instance, no public testimony was received.

Key Decision Points:

- Making a decision on whether or not the applicant has demonstrated the requested fencing meets the spirit of Title 4, Chapter 1 of the Florence City Code as it related to safety and/or security reasons.

ISSUES/DECISION POINTS: There are several options that the Planning Commission could consider for the proposal:

1. Approve the request for three barbed wire strands on top of the existing 8’ fence to a height of 9’5”;
2. Approve fewer barbed wire strands than three on top of the existing 8’ fence to a height of 9’ 5” or lower;
3. Consider denying the proposal;

4. The Planning Commission could require continuance of the hearing to a date certain, thereby allowing the applicant to revise their proposal.

ALTERNATIVES:

1. Approve the request, revising the findings and drafting a resolution stating how the application meets the criteria with conditions.
 2. Review and recommend changes to the findings and approve the findings as amended;
 3. Deny the request for barbed wire fencing and increased fencing height based on findings of fact and lack of evidence that the proposal meets or could meet with conditions; or
 4. Continue the Public Hearing to a date certain of February 8, 2022;
-

RECOMMENDATION:

Planning Staff:

1. Approve the request for three barbed wire strands on top of the existing 8' fence to a height of 9'5".
-

AIS PREPARED BY:

Roxanne Johnston, Senior Planner

ITEM'S ATTACHED

Attachment 1:

Proposed Resolution
Exhibit A - Findings of Fact
Exhibit B - Application & Site Plan
Exhibit C - Fencing Details
Exhibit D - Property Images (Google Earth)

**CITY OF FLORENCE
PLANNING COMMISSION**

RESOLUTION PC 20 30 DR 07

A REQUEST FOR UNSHIELDED EXTERIOR LIGHTING AND BARBED WIRE FENCING AS DESIGN REVIEW ELEMENTS IN A NEW PHASED DEVELOPMENT FOR 470 SELF-STORAGE UNITS AND BUSINESS OFFICE LOCATED ON THE WEST SIDE OF KINGWOOD STREET, BOUNDED BY THE CITY OF FLORENCE PUBLIC WORKS FACILITY TO THE NORTH, THE OREGON COAST MILITARY MUSEUM TO THE SOUTH, AND THE CITY OF FLORENCE MUNICIPAL AIRPORT TO THE WEST

WHEREAS, application was made by Larry and Chrystal Farnsworth, on behalf of Heceta Self Storage Corporation, for a Design Review approval as required by FCC 10-1-1-4, FCC 10-1-1-6-3, FCC 10-6; and FCC 6-1-7-14 and

WHEREAS, the Planning Commission met in a duly-advertised public hearing on December 22, 2020, as outlined in Florence City Code 10-1-1-6-3, to consider the application, evidence in the record, and testimony received; and

WHEREAS, the Planning Commission of the City of Florence, per FCC 10-1-1-4, FCC 10-1-1-6-3, FCC 10-6 and FCC 6-1, finds, based on the Findings of Fact, application, staff recommendation, evidence, and testimony presented to them, that the application meets the applicable criteria through compliance with certain Conditions of Approval.

NOW THEREFORE BE IT RESOLVED that the Planning Commission of the City of Florence finds, based on the Findings of Fact and the evidence in record that the request for specific design review elements of 54 unshielded light units and chain link fencing topped with three strands of barbed wire for a phased development containing 470 self-storage units and an office building meets the applicable criteria in Florence City Code with the conditions of approval as listed below.

Conditions of Approval:

The application, as presented, meets or can meet applicable City codes and requirements, provided that the following conditions of approval are met.

Approval shall be shown on conditions of approval as supported by the following record:

"A"	Findings of Fact
"B"	Application
"C"	Lighting and Fencing Images
"D"	Unshielded Lighting Measurements
"E"	Luminaire Spec Sheets
"F"	Lighting Plan
"G"	Oregon Dept. of Aviation Comments
"H"	Fencing Excerpt from Civil Improv. Plans

“I”	Applicant Narrative for Lighting and Fencing
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Findings of Fact attached as Exhibit “A” are incorporated by reference and adopted in support of this decision.

1. Any modifications to the approved plans or changes of use, except those changes relating to Building Codes, will require approval by the Community Development Director or Planning Commission/Design Review Board.
2. Regardless of the content of material presented, including application text and exhibits, staff reports, testimony and/or discussions, the applicant agrees to comply with all regulations and requirements of the Florence City Code which are current on this date, EXCEPT where variance or deviation from such regulations and requirements has been specifically approved by formal Planning Commission action as documented by the records of this decision and/or the associated Conditions of Approval. The applicant shall submit to the Community Development Department a signed “Agreement of Acceptance” of all conditions of approval prior to issuance of a building permit.
3. Upon encountering any cultural or historic resources during construction, the applicant shall immediately contact the State Historic Preservation Office and the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians. Construction shall cease immediately and shall not continue until permitted by either a SHPO or CTCLUSI representative.
4. The applicant shall ensure that lighting be extinguished at the end of business hours except as needed for safety in accordance with FCC 10-37-4 D and that the unshielded fixtures be mounted thirty degrees to ensure downward illumination thereby preventing up-lighting in accordance with FCC 10-37- 5 H.
5. The fencing shall become the ongoing maintenance responsibility of this development.
6. The request for design elements conditionally approved by the Planning Commission on December 22, 2020 shall expire on December 22, 2021, unless substantial construction has taken place per FCC 10-6-11.

ADOPTED BY THE FLORENCE PLANNING COMMISSION/DESIGN REVIEW BOARD the 22th day of December, 2020.



12/23/2020

John Murphy, Chairperson
Florence Planning Commission

DATE

FINDINGS OF FACT (Proposed)
FLORENCE PLANNING COMMISSION
Exhibit “A”

Public Hearing Date: January 25, 2022

Application: PC 22 02 DR 01- Mast Brother’s Fence Materials & Height Exception

I. PROPOSAL DESCRIPTION

Proposal: A Type III request for approval to use barbed wire fencing thereby increasing fence height above maximum allowance of 8 feet for the subject property within the Highway District, regulated by Florence City Code, Title 10, Chapter 16.

Applicant: Joshua Mast

Property Owner: Ronald Mast

Location: 3087 Hwy 101, Assessor’s Map 18-12-23-23, Tax Lot 05200, located SW of intersection of Hwy 101 and 31st St.

Site Characteristics:

	Use(s)	Zoning	Comp. Plan Designation	Streets/TSP Classification
Site	Mast Brother’s Office	Highway District	Highway District	Hwy 101/Arterial 31 st St./Local
North	vacant/Residential	Highway District	Highway District	31 st St./Local
South	Retail/ Residential	Highway District	Highway District	Alley
East	Fresh Harvest Café	Highway District	Highway District	Highway 101/Arterial
West	Residential	Highway District	Highway District	None

II. BACKGROUND/NARRATIVE

Procedure – At the request of the Oregon State Police, the applicant submitted an application for City approval in order to install barbed wire on top of an existing opaque fence for security purposes, (Exhibit B). Although the applicant would prefer razor wire, such fencing is not allowed by FCC 6-1-7-14A-1: *“Electric or razor wire fences are not permitted on any property within city boundaries. No owner or person in charge of residential property shall construct or maintain an electric or barbed wire fence, or permit any such fence on property under his or her control.”*

The applicant also explains that the barbed wire would only be accessible by those climbing the fence and that the only risk would involve those trying to climb the fence. The goal is to further ensure safety of vehicles and property (Exhibit B).

Existing fencing is visible from Hwy 101, 30th and 31st Streets (Exhibit D). The area is characterized by a mix of commercial and residential uses.

Issues/Decisions-- Barbed wire fencing is regulated by Florence City Code, Title 6, *Police Regulations*, Chapter 1, Nuisances. Approval of such fencing falls under the purview of

the Planning Commission. This proposal includes three strands surrounding the property on top of an existing 8' chain link fence containing opaque slats. Total fencing height is estimated at 9'.5". (Exhibit C).

III. NOTICES & REFERRALS

Notice: On January 5, 2022, notice was mailed to surrounding property owners within 100 feet of the property. Signage with notice copies were posted on site January 6, 2022.

At the time of this report, the City had received no public comments on the proposal.

Referrals: Referrals were sent to the City of Florence Public Works, and ODOT on January 13, 2022.

At the time of this report, the City received no referral comments on the proposal.

IV. APPLICABLE REVIEW CRITERIA

Florence City Code:

(found at <http://www.ci.florence.or.us/council/title-10-zoning-regulations>)

Title 10: Zoning Regulations

Chapter 1: Zoning Administration, Section 1-6-3

Chapter 6: Design Review, Section 6-5-1-C & J

Chapter 16: Highway District, Section 16 - 5 -B

Chapter 34: Landscaping, Section 5-F-4

Title 6: Police Regulations

(found at <https://www.ci.florence.or.us/council/title-6-police-regulations>)

Chapter 1: General Offenses, Section 7-14 (Fences)

V. FINDINGS OF FACT

Code criteria are listed in **bold**, with response beneath. Only applicable criteria have been listed.

Conditions have been added for the various decision alternatives. Findings of Fact and Conditions of Approval will be modified and or removed in accordance with their decision.

FLORENCE CITY CODE

TITLE 10: CHAPTER 1: ZONING ADMINISTRATION:

10-1-1-6-3: TYPE III REVIEWS – QUASI-JUDICIAL LAND USE HEARINGS:

A. Hearings are required for Type III (quasi-judicial) land use matters requiring Planning Commission review. Type III applications include, but are not limited to:

1. Limited land use decisions for non-residential uses made by staff, for which a request for referral to Planning Commission by the Planning Commission Chairperson or Planning Director has been made.

[...]

5. New construction requiring Design Review.

[...].

B. Notification of Hearing:

1. At least twenty (20) days prior to a Type III (quasi-judicial) hearing, notice of hearing shall be posted on the subject property and shall be provided to the applicant and to all owners of record of property within 100 feet of the subject property, except in the case of hearings for Conditional Use Permits, Variance, Planned Unit Development and Zone Change, which notice shall be sent to all owners of record of property within 300 feet of the subject property.

a. Notice shall also be provided to the airport as required by ORS 227.175 and FCC 10-21-2-4 and any governmental agency that is entitled to notice under an intergovernmental agreement with the City or that is potentially affected by the proposal. For proposals located adjacent to a state roadway or where proposals are expected to have an impact on a state transportation facility, notice of the hearing shall be sent to the Oregon Department of Transportation.

[...]

d. Notice shall be mailed to any person who submits a written request to receive notice.

The barbed wire proposal and height increase from maximum allowance of 8 ft to 9.'5" require a Type III process as listed in A-1 & 5 above and Title 6, Chapter 1 -7-14-A. Notice of the application was provided to property owners within 100 feet of the subject property 21 days prior to the public hearing scheduled for January 24, 2022. The property was posted the following day. This development proposal is located adjacent to a state roadway; ODOT and the Public Works Director were noticed on January 13, 2022. This request is not expected to impact a state transportation facility. These criteria are met.

e. For appeals, the appellant and all persons who provided testimony in the original decision.

2. Prior to a Type III (quasi-judicial) hearing, notice shall be published one (1) time in a newspaper of general circulation. The newspaper's affidavit of publication of the notice shall be made part of the administrative record.

The related public hearing notice is scheduled to be published in the Siuslaw News on January 19, 2022. This criterion is met.

C. Notice Mailed to Surrounding Property Owners - Information provided:

1. The notice shall:
 - a. Explain the nature of the application and the proposed use or uses which could be authorized;
 - b. List the applicable criteria from the ordinance and the plan that apply to the application at issue;
 - c. Set forth the street address or other easily understood geographical reference to the subject property;
 - d. State the date, time and location of the hearing;
 - e. State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes further appeal based on that issue;
 - f. State that application and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;
 - g. State that a copy of the staff report will be available for inspection at no cost at least 7 days prior to the hearing and will be provided at reasonable cost;
 - h. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.
 - i. Include the name of a local government representative to contact and the telephone number where additional information may be obtained.

Notice was mailed to all property owners within 100 feet of the proposed site. The notice contained all the required information listed in FCC 10-1-1-6-3-C. This criterion has been met.

D. Hearing Procedure: All Type III hearings shall conform to the procedures of Florence City Code Title 2, Chapters 3 and 10.

E. Action by the Planning Commission:

1. At the public hearing, the Planning Commission shall receive all evidence deemed relevant to the issue. It shall then set forth in the record what it found to be the facts supported by reliable, probative and substantive evidence.
2. Conclusions drawn from the facts shall state whether the ordinance requirements were met, whether the Comprehensive Plan was complied with and whether the requirements of the State law were met.

3. In the case of a rezoning request, it shall additionally be shown that a public need exists; and that the need will be best served by changing the zoning of the parcel of land in question.
4. There is no duty upon the Planning Commission to elicit or require evidence. The burden to provide evidence to support the application is upon the applicant. If the Planning Commission determines there is not sufficient evidence supporting the major requirements, then the burden has not been met and approval shall be denied.

The Planning Commission held a duly-noticed public hearing per the procedures of FCC 2-3 and FCC 2-10 on January 25, 2022, to consider the matter, evidence relevant to the issue, the facts within the record, and any applicable public testimony received.

F. Notice of Decision by the Planning Commission: A notice of the action or decision of the Planning Commission, and right of appeal shall be given in writing to the applicant. Any party who testified either in writing or verbally at the hearing must provide a mailing address in order to be noticed. The notice may be served personally, or sent by mail. The notice shall be deemed served at the time it is deposited in the United States mail.

Following a decision by the Planning Commission, notice of the action and decision will be mailed to the applicant and any party who has testified either in writing or verbally at the public hearing.

Upon issuing a decision, a notice of decision will be provided as required in this code section.

TITLE 10: CHAPTER 6: DESIGN REVIEW

10-6-5-1: GENERAL APPROVAL CRITERIA FOR NONRESIDENTIAL DEVELOPMENT: Nonresidential projects shall meet the following criteria. The Planning Commission or Planning Commission or their designee may require any of the following conditions it deems necessary to secure the purpose and intent of this Chapter. The Commission or their designee shall consider the following criteria reviewing applications and may set conditions or standards which regulate and limit the following:

[...]

- C. Installation and maintenance of fences, walls, hedges, screens and landscaping according to standards set forth in FCC Landscaping, and any requirements of the underlying zoning district.

[...]

- I. Public health, safety and general welfare.

[...]

This section is applicable in these Findings because it establishes that the Planning Commission has the authority to review and place conditions on fencing and in the interest of public health, safety and general welfare.

10-6-11: LAPSE OF DESIGN REVIEW APPROVAL: Authorization of a design review permit shall be void one (1) year after the date of approval of either a Type II or III design review application, unless a building permit has been issued and substantial construction

pursuant thereto has taken place. Substantial construction shall be considered to be completion of one (1) year maximum duration based on compliance with the following criteria:

- A. The request for an extension is made in writing prior to expiration of the original approval.
- B. There are special or unusual circumstances that exist which warrant an extension.
- C. No material changes of surrounding land uses or zoning has occurred.

[...]

The request for barbed wire fencing approved by the Planning Commission on January 25, 2022, shall expire on January 25, 2023, unless substantial construction has taken place in accordance with FCC 10-6-11, [\[Condition 3\]](#).

TITLE 10: CHAPTER 16: HIGHWAY DISTRICT (H)

10-16-5: DEVELOPMENT STANDARDS: The City may require any conditions it deems necessary to secure the purpose and intent of this Chapter. Such conditions may regulate and limit the following:

[...]

B. The installation and maintenance of fences, walls, hedges, screens and landscaping according to standards set forth in FCC 10-34 Landscaping, except as modified by specific standards of this zoning district.

As suggested in the above code, the Planning Commission may require a condition on the proposed fencing. Being that the property is highly visible from the highway and area residents, screening would be necessary to shield the visual impacts of a towing company. The applicant shall be responsible for the maintenance of existing fencing and landscaping. as is conditioned below

TITLE 10: CHAPTER 34: LANDSCAPING

10-34-5: FENCES AND WALLS: Construction of fences and walls shall conform to all of the following requirements:

...

F. Materials.

4. Barbed wire fencing may be permitted only within commercial and industrial zones or on public property subject to the criteria in FCC 6-1-7-14.

The property is within the Highway District regulated by FCC 10-16. This criterion is met. Review of Title 6 Chapter 1 Section 7-14 is below.

TITLE 6: CHAPTER 1: GENERAL OFFENSES

6-1-7-14: FENCES

A. [...] Barbed wire fencing may be permitted on commercial, industrial, or public property at the discretion of the Planning Commission/Design Review Board only if the following criteria are met: (Ord. 591, 9-26-77) (Amend. Ord. 12, 2002).

1. Additional security is warranted for health and safety reasons that cannot be addressed by standard fencing or other security measures.
2. The fencing is constructed in a way to cause the least hazard to employees and citizens in its non-deterrent mode.
3. The potential risk of injury from the fencing is less than the risk contained within the business site.
4. There is no feasible alternative.

The applicant is proposing 3 strands of barbed wire atop an 8' cyclone fence containing opaque fabric mesh screening in addition to security gates. The barbed wire fencing is proposed for all sides of the site. Upon full buildout, the fencing would measure approximately 9'5" feet in height.

The barbed wire shall be mounted so that it does not extend into the air space of the adjoining property or public or private rights of way. **(Condition 4)**

Looking into the future, it is important to ensure that the fencing is maintained to ensure it does not sag, rust or become unconnected from the main fence. The fencing shall become the ongoing maintenance responsibility of this development. Damaged fencing shall be replaced within two weeks of identification of damage. **[Condition 5]**.

V. **CONCLUSION**—Planning Commission decision at the conclusion of the hearing

The proposed design element of barbed wire described can meet the requirements of City Code subject to conditions outlined in Resolution PC 22 02 DR 01.

VI. EXHIBITS

"A"	Findings of Fact
"B"	Application & Site Plan
"C"	Fencing Details
"D"	Property Images (Google Earth)



Exhibit B

City of Florence
Department
way 101
R 97439
Phone: (541) 997-8237
Fax: (541) 997-4109
www.ci.florence.or.us

Type of Request

THIS SECTION FOR OFFICE USE ONLY

☐ Type I ☐ Type II ☒ Type III ☐ Type IV

Proposal: _____

Applicant Information

Name: Joshua R. Mast

Phone 1: _____

E-mail Address: _____

Phone 2: _____

Address: _____

Signature: [Signature]

Date: _____

Applicant's Representative (if any): Jerry Wilson

Property Owner Information

Name: Ronald R. Mast

Phone 1: _____

E-mail Address: _____

Phone 2: _____

Address: _____

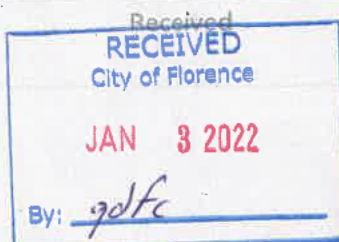
Signature: Ron R Mast

Date: _____

Applicant's Representative (if any): Jerry Wilson

NOTE: If applicant and property owner are not the same individual, a signed letter of authorization from the property owner which allows the applicant to act as the agent for the property owner must be submitted to the City along with this application. The property owner agrees to allow the Planning Staff and the Planning Commission onto the property. Please inform Planning Staff if prior notification or special arrangements are necessary.

For Office Use Only:



Approved

Exhibit

Property Description

Site Address: _____

General Description: Tow yard and Shop

Assessor's Map No.: 18 - _____ - _____ - _____ Tax lot(s): _____

Zoning District: _____

Conditions & land uses within 300 feet of the proposed site that is one-acre or larger and within 100 feet of the site that is less than an acre OR add this information to the off-site conditions map

(FCC 10-1-1-4-B-3): _____

Project Description

Square feet of new: _____ Square feet of existing: _____

Hours of operation: _____ Existing parking spaces: _____

Is any project phasing anticipated? (Check One): Yes ☐ No ☐

Timetable of proposed improvements: As Soon As Possible

Will there be impacts such as noise, dust, or outdoor storage? Yes ☐ No ☒

If yes, please describe: _____

Proposal: (Describe the project in detail, what is being proposed, size, objectives, and what is desired by the project. Attach additional sheets as necessary)

1. Per OSP They are Requesting we Install Razor Wire / Barb Wire on TOP of our Fence for Security of Vehicles and Property
2. Wire will Be on TOP of Fence, And only Accessible IF Climbed.
3. Risk of Injury will only occur if Someone Tries going over.
4. No other Alternatives at This Time

For Office Use Only:

Date Submitted: 1/3/22 Fee: _____

Received by: gdfc

Paid

CYCLONE FENCE

ENTRY

308.

THE SPECIALS INCLUDING THE EXAMINER'S CHECKLIST, PLANS & SPECIFICATIONS, WITH STATE CO-ORDINATED REVIEWED PLANS & SEVEN (7) OF THE CONSTRUCTION, A SCHEDULE OF PAY CONSTRUCTION, A SCHEDULE OF THE WORKS, OR STATE REVIEW SHALL NOT RECEIVE THE CO-ORDINATING THAT ARE FOUND TO CONFLICT. THE REVIEWER SHALL BE REQUIRED TO REVIEW THE PLANS & SPECIFICATIONS FOR QUALITY OF ACTUAL CONSTRUCTION QUALITY AND EXPENSE TO BE AVOIDED.

PLANS COVERED BY
REVIEW 1001-119

HWY 101

ADDRESS: 3087 HWY 101

Pans
for
~~REFRIG~~
only

SCALE

City of Florence

By: gdf

SEE
#4

EXILE
BL
OR
11

HWY 101

PLANS CHECKED BY: [Signature]
PERMIT NO: 201-119

Exhibit C

From: Jerry | Mast Bros <jerry@mastbros.com>
Sent: Thursday, January 13, 2022 12:19 PM
To: Wendy Farley-Campbell <wendy.farleycampbell@ci.florence.or.us>
Subject: RE: Florence-Mast Bros. Fence Modification

The existing fence is 8'. It will be about 9.5' with the wire. We would like to use 1 strand of coiled razor wire, but if we are not able to do that then we will use 3 strands of barbed wire.

Jerry

From: Wendy Farley-Campbell <wendy.farleycampbell@ci.florence.or.us>
Sent: Thursday, January 13, 2022 12:13 PM
To: Jerry | Mast Bros <jerry@mastbros.com>
Cc: Roxanne Johnston <Roxanne.Johnston@ci.florence.or.us>
Subject: RE: Florence-Mast Bros. Fence Modification

Jerry,

Three questions:

How tall is the existing fence?
How tall after the addition?
How many strands of barbed wire?

Thank you.

Wendy

Exhibit D

Mast Bros. West from Hwy 101



Mast Bros. South from 31st St.



Mast Bros. South from 31st St.



Mast Bros. East from 31st St.



Mast Bros. West from Hwy 101.



Mast Bros. North from 30th St.

