

City of Scottsbluff, Nebraska
Monday, October 12, 2015
Regular Meeting

Item NewBiz2

Tabled Ordinance Text Chg Chapter 21

Ord Text Change: Subdivision Code - Alley location

Applicant(s): City

Owner(s): N/A

Location: N/A

Staff Contact: Annie Urdiales



SCOTTSBLUFF PLANNING COMMISSION Staff Report

To: Planning Commission
From: Staff Development Services
Date: October 12, 2015
Subject: Proposed Ordinance text change in Chapter 21
Subdivision Code, 21-1-20 Alleys: location

The Planning Commission tabled a proposed ordinance text change amendment at their last meeting regarding language in Chapter 21, Subdivision Code, 21-1-20, regarding placement of alleys on all lots development for commercial business.

The proposed ordinance states three exceptions to this code. 1) There is access for emergency vehicles and City vehicles needed for trash, sewer, water or other City services, as well as access for delivery vehicles; or 2) The applicant has provided access easements for the City to use for emergency vehicles, other city vehicles for trash, sewer or water; and 3) The City's Director of Public Works has reviewed the proposed subdivision for access or easements and has signed a written waiver on behalf of the City for the required alley and its location.

Some of the concerns were who will enforce if they do not maintain the access easement, what would be done if the access easements and utility easements were not maintained as stated in the ordinance.

I checked with legal regarding the Planning Commission concerns and was told the property owner granting the easement to the City will still own the property and as such would have the duty to "maintain" the easement area, (mowing weeds and grooming the property). The City will be granted the right to use the area as access and would be the dominant estate, but the property owner would still own the servient estate, just subject to the easement. By "maintain" we mean the right to drive over and not have any obstructions, then the City would have to monitor and make sure there are no obstructions to prevent its use. If there are obstructions, then the City would have to take actions to exercise the rights granted in the easement. The City could not delegate to the public its duty to maintain their property rights, as those attempts have been rejected by our supreme court. These easements will be like all the other easements throughout the City.

RECOMMENDATION

Approve

Make a motion for positive recommendation for City Council to approve proposed ordinance text amendment in Chapter 21 Subdivision Code amending 21-1-20 setting forth exceptions on alley requirement/placement in business zoning districts subject to the following condition(s):

Deny

Make a motion for negative recommendation to City Council to disapprove proposed ordinance text amendment in Chapter 21, Subdivision Code, amending 21-1-20 setting forth exceptions on alley requirements/placement in business zoning districts subject for the following reason(s):

Table

Make the motion to TABLE the proposed ordinance text amendment in Chapter 21 Subdivision Code amending 21-1-20 setting forth exceptions on alley requirements/placement in business zoning districts for the following reason(s):

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SCOTTSBLUFF, NEBRASKA AMENDING THE SCOTTSBLUFF MUNICIPAL CODE AT CHAPTER 21, ARTICLE 1, RELATING TO SUBDIVISION REQUIREMENTS AND SPECIFICALLY ALLEYS, AMENDING SECTION 21-1-20 RELATING TO REQUIRED ALLEYS, REPEALING FORMER SECTIONS, PROVIDING FOR PUBLICATION IN PAMPHLET FORM AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SCOTTSBLUFF, NEBRASKA:

Section 1. Section 21-1-20 of the Scottsbluff Municipal Code is amended to provide as follows:
“21-1-20. Alleys; location; exception.

An alley shall be provided at the rear of every lot used or proposed to be used for business purposes. Provided, however, a subdivision may be approved without an alley at the rear of a lot, if the following conditions are met:

- (1) The applicant has provided and will maintain access sufficient for emergency vehicles and City vehicles needed for trash, sewer, water or other City services, as well as access for delivery vehicles; or
- (2) The applicant has provided and maintains an access easement(s) sufficient for the City to use for emergency vehicles, other city vehicles for trash, sewer or water; and
- (3) The City, through its Planning and Development Department, Public Works Department and Fire Department, has reviewed the proposed subdivision for sufficient access or easements and the Mayor or Council President signed a written waiver on behalf of the City for the required alley and its location.”

Section 2. All other Ordinances and parts of Ordinances passed and approved and in conflict herewith are now repealed.

Section 3. This Ordinance shall be published in pamphlet form and shall become effective upon its passage and approval.

PASSED AND APPROVED on _____, 2015.

Mayor

ATTEST:

City Clerk

(Seal)