

City of Scottsbluff, Nebraska

Monday, September 19, 2016

Regular Meeting

Item Resolut.3

Council to consider an Ordinance allowing for Tiny Home Communities as a Planned Unit Development.

Staff Contact: Annie Folck, City Planner

Agenda Statement

Item No.

For meeting of: September 19, 2016

AGENDA TITLE: Council to consider an ordinance allowing for Tiny Home Communities as a Planned Unit Development

SUBMITTED BY DEPARTMENT/ORGANIZATION: Planning and Zoning

PRESENTATION BY:

SUMMARY EXPLANATION: The City has recently received several inquiries about tiny homes. Currently the City's zoning code has a minimum residential home size of 700 square feet, which is much larger than the typical tiny home, which can be as small as 100-200 square feet. After reviewing the City's building and zoning codes, it is proposed that tiny homes be allowed through a Planned Use Development (PUD), as that can allow for more flexibility when it comes to home sizes without compromising the intent and character of residential zoning districts. A tiny home community can be built as a PUD and can allow homes that are 200-700 square feet. These homes would have to meet all applicable building codes, be on a permanent foundation, and have water and sewer service. This would allow for small neighborhoods of tiny homes grouped together. Each PUD would have to be a minimum of three acres, with the exception that a smaller area may be approved if it is redevelopment and meets the overall intent of the code. This is to allow existing mobile home parks or other areas to be repurposed as tiny home communities if appropriate.

There are also some portable tiny homes on wheels; the state of Nebraska classifies these as RVs and requires them to be licensed as such. This ordinance proposes that we treat portable tiny homes the same way; they must be licensed and can be placed anywhere where an RV is allowable (campgrounds, etc.), but residents may not live in them year-round.

BOARD/COMMISSION RECOMMENDATION: Planning Commission recommends approval of this ordinance (see attached minutes).

STAFF RECOMMENDATION: Recommend approval of the ordinance

EXHIBITS

Resolution ☐ Ordinance ☒ Contract ☐ Minutes ☒ Plan/Map ☐

Other (specify) ☐ _____

NOTIFICATION LIST: Yes ☐ No ☒ Further Instructions ☐

APPROVAL FOR SUBMITTAL: _____
City Manager

Rev 3/1/99CClerk

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SCOTTSBLUFF, NEBRASKA AMENDING CHAPTER 25 ARTICLE 7 RELATING TO PLANNED UNIT DEVELOPMENTS PROVIDING FOR AN ADDITIONAL SECTION RELATING TO A TINY HOME COMMUNITY PLANNED UNIT DEVELOPMENTS, PROVIDING FOR PUBLICATION IN PAMPHLET FORM AND FOR AN EFFECTIVE DATE.

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

Section 1. Chapter 25, Article 7 of the Scottsbluff Municipal Code is amended by adding new Sections 25-7-81 through 25-7-87 to provide as follows:

“(f) TINY HOME COMMUNITY PLANNED UNIT DEVELOPMENT

25-7-81.

(1) Applicability. The regulations in this subdivision (f) of this Article apply to Tiny Home Community Planned Unit Developments.

(2) Scope. With respect to such developments, these regulations supersede all other regulations in this Article, and in other Articles of this Chapter, which are in conflict with these regulations. Except in cases of such conflict, or in situations where such other regulations clearly are inapplicable (because clearly inappropriate) to Tiny Home Community Planned Unit Developments, such other regulations, otherwise applicable, apply also to such developments.

(3) Purpose. The purpose of the regulations in this subdivision (f) is to permit the planning, construction, and occupancy of Tiny Home Community Planned Unit Developments in accordance with standards for Tiny Houses, and for accessory buildings and lands, containing adequate parking facilities, open spaces, recreation facilities, pedestrian walkways and other amenities which are not required or, as the case may be, not permitted under other provisions of this Article, or other Articles in this Chapter.”

“25-7-82 Definition of Tiny House, lots; area.

A Tiny House is a residential structure on a permanent foundation with a minimum of 200 square feet and a maximum of 700 square feet. A Tiny House must be constructed according to all building codes and life safety codes. A Tiny House on wheels must be licensed as a recreational vehicle under the laws and regulations of the State of Nebraska and then can be placed wherever a recreational vehicle can be placed, however, a Tiny House on wheels cannot be lived in year around. To be lived in year around, the Tiny House must be taken off wheels and affixed to a permanent foundation.

Tiny House sites in a Tiny Home Community Planned Unit Development must have a site area with a minimum of 2,850 square feet and a minimum width of thirty (30) feet.”

“25-7-83 Site; area; frontage and density.

A Tiny Home Community Planned Unit Development shall be not less than three acres in area, and shall have a frontage on a dedicated street of not less than two hundred (200) feet. The density of Tiny Home Community Planned Unit Development shall not exceed ten (10) units per gross acre. Provided, however, the City may approve a smaller site if it is part of a redevelopment site and meets the intent of this Article.”

“25-7-84 Setbacks.

The following minimum yard setbacks shall be maintained in each Tiny Home Community Planned Unit Development:

(1) Public street frontage: On that part of a Tiny Home Community Planned Unit Development which is adjacent to a major street, a minimum setback of twenty (20) feet shall be maintained. On that part of such development which is adjacent to a secondary street or a street with a lower classification, a minimum setback of fifteen (15) feet shall be maintained.

(2) Interior lot lines: A minimum setback from interior lot lines of ten (10) feet shall be maintained.”

“25-7-85 Accessory buildings.

All accessory buildings and structures in a Tiny Home Community Planned Unit Development shall be:

(1) Located to the rear of the Tiny House.

(2) At least three (3) feet from the rear lot line if the line is a common lot line with an abutting lot.

(3) At least two (2) feet from the interior side lot line and if the lot is a corner lot, the accessory building shall not protrude beyond the tiny house into the front yard abutting the side street.

(4) Any detached accessory building shall be situated not less than five (5) feet from the Tiny House.”

“25-7-86 Off-street parking.

Two (2) off-street parking spaces shall be provided on each Tiny House site.”

“25-7-87 Other requirements.

To insure the residential character of a Tiny Home Community Planned Unit Development, and to minimize adverse effects on adjacent properties, the following additional requirements shall be observed:

(1) Tiny Houses shall be affixed to permanent foundations.

(2) Tiny Houses must meet all building codes and life safety codes, minimum square footage requirements, height requirements, including kitchen and bathroom with minimum clearances for all fixtures.

(3) Tiny Houses with sleeping lofts must have a secondary means of egress, such as a window or another means of escape, in the event of a fire.

(4) Tiny Houses shall be limited to occupancy of one person for every 100 square feet.

(5) Tiny Houses must be connected to utilities with separate water services and sewer services and meters for each Tiny House.

(6) A Tiny Home Community Planned Unit Development may be allowable in any residential zone as long as they meet the requirements set forth in this Article.

Section 2. All other ordinances and parts of ordinances in conflict herewith are repealed; provided, however, this ordinance shall not be construed to effect any rights, liabilities, duties or causes of action, either criminal or civil, existing or actions pending at the time when this Ordinance becomes effective.

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

PASSED and APPROVED on _____, 2016.

Mayor

Attest:

City Clerk (Seal)

Approved as to Form:

Deputy City Attorney

**Planning Commission Minutes
Regular Scheduled Meeting
September 12, 2016
Scottsbluff, Nebraska**

The Planning Commission of the City of Scottsbluff, Nebraska met in a regular scheduled meeting on Monday, September 12, 2016, 6:00 p.m. in the City Hall Council Chambers, 2525 Circle Drive, Scottsbluff, Nebraska. A notice of the meeting had been published in the Star-Herald, a newspaper of general circulation in the City, on September 2, 2016. The notice stated the date, hour and place of the meeting, that the meeting would be open to the public, that anyone with a disability desiring reasonable accommodation to attend the Planning Commission meeting should contact the Development Services Department, and that an agenda of the meeting kept continuously current was available for public inspection at Development Services Department office; provided, the City Planning Commission could modify the agenda at the meeting if the business was determined that an emergency so required. A similar notice, together with a copy of the agenda, also had been delivered to each Planning Commission member. An agenda kept continuously current was available for public inspection at the office of the Development Services Department at all times from publication to the time of the meeting.

ITEM 1: Chairman, Becky Estrada called the meeting to order. Roll call consisted of the following members: Anita Chadwick, Angie Aguallo, Henry Huber, Dana Weber, David Gompert, Mark Westphal, and Becky Estrada. Absent: Jim Zitterkopf, Callan Wayman. City officials present: Annie Folck, Planning Coordinator, and Gary Batt, Code Administrator II.

ITEM 2: Chairman Estrada informed all those present of the Nebraska Open Meetings Act and that a copy of such is posted on bookcase in the back area of the City Council Chamber, for those interested parties.

ITEM 3: Acknowledgment of any changes in the agenda: None

ITEM 4: Business not on agenda: None

ITEM 5: Citizens with items not scheduled on regular agenda: None

ITEM 6: The minutes of August 8, 2016 were reviewed and approved. A motion was made to accept the minutes by Gompert, and seconded by Huber. **"YEAS":** Chadwick, Aguallo, Huber, Westphal, Gompert, and Estrada **"NAYS":** None. **ABSTAIN:** Weber. **ABSENT:** Zitterkopf and Wayman. Motion carried.

ITEM 7A: The Planning Commission opened a public hearing to consider designating the East Overland Corridor as Blight and Substandard.

Annie Folck gave an overview of the study. One of the main goals set forth in the newly adopted Comprehensive Plan is redevelopment. Throughout the process of developing the Comprehensive Plan, residents made it clear that they believe the City should focus on improvements in the southeast area of town. Staff has taken the first step to pursue this goal by developing a Blight and Substandard Study for the East Overland Corridor. This study was written by Rick Kuckkahn while he was under contract with the City.

The study itself made it very clear that the area being considered for the Blight Designation meets the requirements laid out in state statute for such a designation. Not every property in the study area is in poor condition; however, of the 381 buildings surveyed as part of the study, 35% were classified as deteriorating, with another 17% that were dilapidated. In addition to more than half of the buildings surveyed being classified as deteriorating or dilapidated, there are many other issues in the area, such as a substandard street system with half streets and offset intersections that support argument for designating the area as blighted and substandard.

Once the East Overland Corridor is designated Blighted and Substandard, all properties within that area will have the ability to use Tax Increment Financing (TIF) in order to help finance redevelopment. TIF funds can be used to purchase property, demolish existing structures, and make any other site improvements necessary for development, such as utility improvements, paving, landscaping, etc. This is a valuable tool that the City is hoping will generate some interest with private developers to invest in the East Overland Corridor.

To inform residents and business owners in this area of the proposed Blight and Substandard designation, the City held a redevelopment workshop at the Guadalupe Center on August 25th. Translators were available for Spanish speakers. About 20 people were in attendance, and City staff was able to answer their questions about the designation and how it affects property owners.

Several residents were in attendance to speak about the proposed blight study. Robert Franco, a resident of Southeast Scottsbluff, stated that he is neither for nor against the blight study, but wanted more information about potential results of the designation. He stated that while TIF can help improve properties in the area, this can lead to higher property valuations for neighbors. He is concerned that increased valuations can cause some long-time residents to be taxed out of their homes. Additionally, a blight and substandard designation can make it easier for eminent domain to be used to force property owners to sell their property to make way for new development. Development can be good, because it is an older community, but the City needs to implement it in a way that benefits the community. The people who use TIF in the area will be mostly outside investors, not long-time residents and business owners. He is concerned that businesses that residents in other parts of town do not want will be located on East Overland. He reiterated that he is neither for nor against the blight and substandard designation, and that these programs can be good, but they can also be bad.

Astrid Munn spoke as well, stating that she believed that the meeting at the Guadalupe Center on August 25th helped inform both English speaking and Spanish speaking residents of Southeast Scottsbluff. She stated that she appreciates that the City wants to make sure everyone understands the meaning behind the Blight and Substandard designation. She does not anticipate similar backlash from residents of Southeast Scottsbluff that the City has experienced when designating other areas of town as blighted and substandard. Southeast Scottsbluff is a very impoverished neighborhood, and while there is a lot of pride in the neighborhood, residents can see their vulnerabilities as well and she believes most would agree that the neighborhood is in need of improvement.

Father Jonathan Sorenson, priest of Our Lady of Guadalupe Church, stated that while the neighborhood is not at all dangerous, it is definitely blighted. It is an older neighborhood that has seen better days, and many properties are in need of investment. Something needs to be done in the area, because many other residents of Scottsbluff perceive the area to be dangerous. Even though the area is not dangerous, that perception is bad for businesses in the area. The neighborhood is in need of help and redevelopment, and the Blight and Substandard designation will allow one tool, TIF, to help take down dilapidated buildings and encourage redevelopment. Area residents love their neighborhood, but they want to see more improvements, and they can't do it all by themselves. This designation can go a long way toward making improvements.

Josefa Guadarrama stated that she has lived in Southeast Scottsbluff all her life. There is a history there of undesirable businesses, with East 9th Street being a former "red light district". In past years, there were efforts that got rid of the bars on 9th Street and it is now a much better neighborhood. However, the area has also lost grocery stores and other desirable businesses, and the neighborhood is now deteriorating because there is a lack of accountability for property owners to maintain their properties. There are many beautiful homes in the area, but some eyesores as well. Colley's auto repair is one of these, with weeds and junk cars, and it has been that way for over a year, and the police are not taking care of it. It would be nice to have a health clinic in the area, or a Mexican ethnic grocery store. The business district is currently known for car lots and restaurants, and residents would like for it to be known for something more. It would be great if the City could help the neighborhood because they need some nicer merchants down there.

Commissioner Westphal asked who wrote the study. Folck stated that the study was completed by Rick Kuckkahn while he was under contract with the City, and that the City's legal counsel had reviewed it.

Commissioner Huber questioned whether TIF would be a part of this, and how it could work with several different properties and zoning districts involved. Commissioner Weber responded that this action by itself essential does nothing, just opens the door to tools like TIF being used in the future. The study will be in place so that if any specific developers step forward, they can utilize TIF without having to first go through the step of having the property declared blighted and substandard.

Robert Franco stated that he was concerned about the types of businesses that might come in as result of the ability to use TIF, and that he didn't want to see businesses that residents in other parts of town did not want in their backyard coming to East Overland. Folck stated that there is a lot of C-3 zoning in the area already, so if businesses that are permitted uses in the C-3 zone want to come in, they can right now. However, the Comprehensive Plan shows future zoning as C-1, C-2, or R-1a, so if a developer came in and requested a rezone to M-1 or M-2, staff would recommend denying that request, as it would not be consistent with the Comprehensive Plan. The overall goal of this is to create more appropriate land uses for the commercial corridor that is adjacent to residential areas.

Commissioner Estrada stated that there are many people in that area who have been in their homes for many years, and she understands the concern about rising property valuations possibly increasing the tax burden on these residents.

Tim Reganis, a property owner along East Overland, stated that he is for designating the area as Blighted and Substandard, as it will help encourage investment and help improve the area. It would be great if TIF could be used as an incentive for a grocery store or convenience store to come into the area.

Conclusion: A motion was made by Huber and seconded by Chadwick to recommend that Council approve the study that would designated the East Overland Corridor as blighted and substandard. "YEAS": Aguillo, Huber, Gompert, Westphal, Weber, Chadwick, and Estrada. "NAYS": None. ABSTAIN: None. ABSENT: Wayman and Zitterkopf. Motion carried.

ITEM 7B: The applicant, Virginia Hilbers is requesting a special use permit to allow for a Daycare Center in an R-4 multi-family residential zoning district. The property is on the north side of 40th Street between Avenue B and Avenue D, and operating as Crossroads Corner Pre-school.

Daycare Centers are listed under special permits uses in the R-4 heavy density multiple family residential zoning district with approval from the Planning Commission. The Fire Prevention Officer has inspected the business and made a positive recommendation of the Daycare. He also advised Ms. Hilbers that even though the business has been operating as a daycare for a few years it did need a special use permit as the facility has over twelve children and the facility does not meet the requirements of a home daycare.

This property is licensed as a Daycare and has been used for Daycare since 2004. The Daycare is licensed for 67 children. Virginia Hilbers spoke, stating that she had been located there for 13 years, and did not realize that a Special Use Permit was necessary. Staff recommended approval of this special use permit because the daycare has been in place for many years, and the City has never received a complaint about it. The City's fire prevention officer also gave a positive recommendation, saying that the daycare met all life and safety requirements.

Conclusion: A motion was made by Westphal and seconded by Gompert to approve the special use permit to allow for a Daycare Center at 317 W 40th Street in a R-4 Heavy Density Multiple Family Residential zoning district to Virginia Hilbers. "YEAS": Aguillo, Huber, Westphal, Weber, Chadwick, Gompert, and Estrada. "NAYS": None. ABSTAIN: None. ABSENT: Zitterkopf, Wayman. Motion carried.

ITEM 7C: The applicant(s), Danielle Darnell is requesting a special use permit to allow for a Permanent Cosmetics Facility in a R-1a single family residential zoning district. The property is on the corner of 1st Ave and 23rd Street, across the street from Bluffs Middle School.

Permanent Cosmetics Facilities are listed under special permits uses in the R-1a single family residential zoning district with approval from the Planning Commission. This property previously operated as Lee's Skincare and Permanent Cosmetics and was licensed as a Body Art Facility in 2012. It sold to Danielle Darnell in 2015, who renamed the business to Wake Up N Makeup.

The owners of the property have it licensed as a Body Art Facility.

Morgan Bradley, representative of Wake Up N Makeup, spoke in favor of the Special Use Permit, stating that the business had been there for many years with no issues.

Conclusion: A motion was made by Gompert and seconded by Westphal to approve the special use permit to allow for a Permanent Cosmetics Facility in the R-1a Single Family Residential zoning district at 102 E 23rd Street to Danielle Darnell. "YEAS": Aguillo, Huber, Weber, Westphal, Gompert, Chadwick, and Estrada. "NAYS": None. ABSTAIN: None. **ABSENT:** Zitterkopf, Wayman. Motion carried.

ITEM 7D: The preliminary and final plat of Lots 1-7, Melroy Addition were pulled from the agenda by the property owner prior to the meeting.

ITEM 7E: Tiny House Ordinance: Staff met with legal about establishing guidelines and requirements for tiny homes. Several issues were discussed, state requirements; along with concerns from our code administrators regarding fire safety. Recommendations discussed is to only allow them on permanent foundations, require minimum square footage that allows for building codes to be met, utilities to each unit. The Tiny Homes/Houses will be added under Article 7 of our zoning code Planned Unit Developments (PUDs) which has information on Condominiums, Townhouses, Cluster Housing, & Mobile Home PUDs.

As a result of discussion at the August 8th meeting, the requirement for residential fire suppression systems was removed, a requirement for a secondary means of egress for sleeping lofts was added, and a limit on the number of people allowed to live in these homes was added (1 person per 100 square feet). Commissioner Weber asked about the discussion on the fire suppression system, and if staff felt that the code changes that are being requested addressed the fire safety issue adequately. Folck stated that the City's fire prevention officer was concerned about the small window of time between the start of a fire and when the home could be fully engulfed in flames, which would happen much faster in a tiny home than in a traditionally sized home. This is the reason that the requirement for a secondary means of egress was included. Staff is recommending the code change as currently written.

Conclusion: A motion was made by Westphal and seconded by Gompert to recommend that Council adopt the ordinance amending Chapter 25 Article 7 to allow for tiny home communities. "YEAS": Aguillo, Huber, Weber, Westphal, Gompert, Chadwick, and Estrada. "NAYS": None. ABSTAIN: None. **ABSENT:** Zitterkopf, Wayman. Motion carried.

ITEM 7F: Staff met with legal about establishing guidelines and requirements for microbreweries. There have been several inquiries to the City about zoning for this use. An ordinance was drafted based off of Grand Island's zoning code.

The ordinance defines brewery, micro brewery, and brew pub. A brewery produces over 10,000 barrels a year, and a micro brewery produces under 10,000 barrels a year. This is the same way that the State of Nebraska classifies them. A brew pub is a business such as a restaurant or hotel that also brews its own beer on site.

A brew pub is proposed as a permitted use in C-1, C-2, C-3, M-1, and M-2 zoning districts. Because a microbrewery is more of an industrial use, it is proposed as a Special Permit Use in C-1 and C-2 zones to give Planning Commission a little more oversight on the traffic and other effects it generates. It would be a permitted use in C-3, M-1, and M-2 zoning districts. A brewery is proposed as a permitted use in C-3, M-1, and M-2 zones.

Commissioner Weber asked about storage of product and additional truck traffic for a microbrewery, and if that was the reasoning behind requiring a Special Use Permit for a microbrewery in a C-1 or C-2 zone. Folck stated that it was, and that the size and scope of microbreweries can vary from extremely small microbreweries that are more of a hobby to larger-scale microbreweries that are nearing the 10,000 barrel a year amount that would be similar to a full-scale brewery. For this reason, a Special Use Permit could give a little more oversight in the C-1 and C-2 zones to ensure that the amount of truck traffic or other characteristics of the business do not adversely affect neighboring properties.

Conclusion: A motion was made by Westphal and seconded by Gompert to recommend that Council adopt the ordinance amending Chapter 25 Article 3 to define breweries, microbreweries, and brew pubs and to provide for them in the zoning code. "YEAS": Aguillo, Huber, Weber, Westphal, Gompert, Chadwick, and Estrada. "NAYS": None. ABSTAIN: None. **ABSENT:** Zitterkopf, Wayman. Motion carried.

ITEM 8: Unfinished Business: None.

There being no further business, a motion to adjourn was made by Weber and seconded by Gompert. The meeting was adjourned at 7:25 p.m. "YEAS": Weber, Westphal, Gompert, Huber, Chadwick, Aguillo, and Estrada. "NAYS": None. ABSTAIN: None. **ABSENT:** Wayman, Zitterkopf. Motion carried.

Becky Estrada, Chairperson

Attest: _____
Annie Folck