

# **City of Scottsbluff, Nebraska**

**Monday, June 15, 2015**

**Regular Meeting**

## **Item Subdiv.2**

**Council to consider an Ordinance to Vacate Block 9, Five Oaks Subdivision, Scottsbluff, Scotts Bluff County, Nebraska.**

**Staff Contact: Annie Urdiales, Planning Administrator**

# Agenda Statement

Item No.

For meeting of: June 15, 2015

**AGENDA TITLE:** Ordinance to Vacate – Block 9, Five Oaks Subdivision, Scottsbluff, Scotts Bluff County, Nebraska.

**SUBMITTED BY DEPARTMENT/ORGANIZATION:** Development Services

**PRESENTATION BY:** Rick Kuckkahn

**SUMMARY EXPLANATION:** Jason and Sami Webb requested an ordinance to vacate Block 9, Five Oaks Subdivision, this parcel is situated on the southeast corner of Avenue I and West 42<sup>nd</sup> Street, a vacation plat along with a final plat with changes to Block 9 has also been submitted for approval.

**BOARD/COMMISSION RECOMMENDATION:** The Planning Commission approved the ordinance to vacate with vacation plat at their regular meeting of May 11, 2015.

**STAFF RECOMMENDATION:** Staff recommends City Council approve the ordinance to vacate.

---

## EXHIBITS

Resolution      Ordinance x      Contract      Minutes x      Plan/Map x

Other (specify)  \_\_\_\_\_

**NOTIFICATION LIST:** Yes  No  Further Instructions   
Baker & Associates, 120 East 16<sup>th</sup> Street, Scottsbluff, NE 69361  
Jason & Sami Webb, 1402 W 42<sup>nd</sup> St., Scottsbluff, NE 69361

**APPROVAL FOR SUBMITTAL:** \_\_\_\_\_  
City Manager

Rev 3/1/99CClerk

**Planning Commission Minutes**  
**Regular Scheduled Meeting**  
**May 11, 2015**  
**Scottsbluff, Nebraska**

The Planning Commission of the City of Scottsbluff, Nebraska met in a regular scheduled meeting on Monday, May 11, 2015, 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 May 1, 2015. 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: Angie Aguallo, Jim Zitterkopf, Mark Westphal, Callan Wayman, David Gompert, Henry Huber, and Becky Estrada. Absent: Anita Chadwick, and Dana Weber. City officials present: Annie Urdiales, Planning Administrator, Annie Folck, City Planner, 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 April 13, 2015 were reviewed and approved. A motion was made to accept the minutes by Gompert, and seconded by Westphal. "YEAS": Zitterkopf, Westphal, Wayman, Huber, Gompert, and Estrada. "NAYS": None. ABSTAIN: Aguallo. ABSENT: Chadwick and Weber. Motion carried.

**ITEM 7A:** The Planning Commission opened a public hearing for a Redevelopment Plan for the Scottsbluff Monument Mall. RockStep Scottsbluff LLC is proposing to redevelop the Monument Mall which is situated north of Circle Drive, South of 27th Street and West of Highway 26 – Monument Mall. The Mall is located in this area which was designated as Blighted and Substandard in 2013. This Redevelopment Plan has been prepared to for the Rehabilitation of the Monument Mall ("Redevelopment Project").

Major improvements will be funded with Tax Increment Financing (TIF), Occupation Tax, and private funds, which will be used for site preparation – parking lot resurface, signage, roof replacement, exterior lighting, landscaping, HVAC replace & repair, rehab vacant spaces for tenants, Theater rehab (if required).

|                              |            |
|------------------------------|------------|
| Portion of costs paid by TIF | \$ 578,130 |
|------------------------------|------------|

|    |   |             |
|----|---|-------------|
| 52 | Portion of costs paid by Occupation tax     | 1,816,650   |
| 53 | Portion of costs paid by Developer          | 6,255,220   |
| 54 |   |             |
| 55 | Total Private and Public Improvements total | \$8,650,000 |

56  
57 Mike Bacon, representing RockStep LLC gave a brief overview of the plan, 60,000 square feet of the mall  
58 is currently vacant. To attract national tenants, they need to buy them with low rent and modifications to  
59 the vacant spaces. The Redevelopment law allows for rehab of this type of business. The rehabilitation  
60 of the mall will help revitalize the community along with a vibrant downtown. The new TIF laws allow  
61 for an “enhanced employment area” which would impose an occupation tax on all sales in the mall, the  
62 proceeds of which may also be used for any improvements that qualify for TIF funds.

63  
64 **Conclusion:** A motion was made by Huber and seconded by Aguallo to make a positive recommendation  
65 to City Council for the Redevelopment Plan of the Monument Mall “YEAS”: Aguallo, Zitterkopf,  
66 Westphal, Gompert, Huber, Wayman, and Estrada. “NAYS”: None. **ABSTAIN:** None. **ABSENT:**  
67 Chadwick and Weber. Motion carried.

68  
69 **ITEM 7B:** The Planning Commission opened a public hearing for a Blight and Substandard Study for  
70 part of Five Oaks Subdivision and Adler Tracts this area consists of approximately 61.78 acres, the Five  
71 Oaks area is situated south of 42<sup>nd</sup> Street and East of Avenue I to the current city limit line and include  
72 half streets Avenue G and 40<sup>th</sup> Street. The Adler tract area is situated west of Avenue I, north of 36th  
73 Street. Designating these areas as Blighted and Substandard will make them eligible for Tax Increment  
74 Financing as long as they are within the City’s corporate limits. State statutes have specific requirements  
75 of conditions that must exist on the property in order to designate it as Blighted and Substandard. This  
76 study demonstrates that these conditions do exist within the study area.

77  
78 As a City of the First Class, Scottsbluff may designate up to 35% of our corporate area as blighted and  
79 substandard. Currently, 20.5% is so designated; with the addition of the study area, the City will be up to  
80 22%, well within the limits allowed by statute.

81  
82 Mike Bacon, spoke in favor of the study which was prepared by Ken Bunger, Mr. Bunger has quite a  
83 background on TIF projects. The funds will be used for improvements of Block 9, of the Five Oaks  
84 Subdivision. TIF funding has not been used in the past for Five Oaks and if the study is approved they  
85 will be used to complete infrastructure for the rest of the subdivision along with the completion of the half  
86 streets abutting the subdivision.

87  
88 **Conclusion:** A motion was made by Zitterkopf and seconded by Huber to make a positive  
89 recommendation to City Council to approve the Blight and Substandard Study of Part of Five Oaks  
90 Subdivision and Adler Tracts. “YEAS”: Huber, Zitterkopf, Aguallo, Wayman, Gompert, Huber, and  
91 Estrada. “NAYS”: None. **ABSTAIN:** None. **ABSENT:** Weber and Chadwick. Motion carried.

92  
93 **ITEM 7C.** The Planning Commission opened a public hearing for a revised preliminary plat of Five  
94 Oaks Subdivision 2015, submitted by property owners, C & T Holdings and Baker and Associates.

95  
96 The revised preliminary plat has been changed to reflect changes to Block 9 an additional 3± was added  
97 to the east area of the new Block 9, this change eliminating two streets (Red Cedar Drive) and West 41<sup>st</sup>  
98 Street, West Oak Boulevard was realigned and renamed to 40th Street to line up with 40th Street to the  
99 east. The following lots and blocks on the preliminary plat were changed:

- 100  
101 Lots 1 and 2, Block 9 (changed 1 and added 2)  
102 Lots, 16, 17 all in Block 6 (changed)

103 Lot 1 Block 11 (changed - is smaller)  
104 Deleted Lots 4, 5, and 6 Block 12  
105 Deleting Lot 18, Block 6.

106  
107 The Lots south of 40th Street and east of Avenue G were not changed. The revised preliminary plat  
108 meets the subdivision codes and city standards.

109  
110 **Conclusion:** A motion was made by Westphal and seconded by Huber to approve the revised  
111 preliminary plat of Five Oaks Subdivision 2015, City of Scottsbluff, Scotts Bluff County, Nebraska.  
112 “YEAS”: Aguallo, Zitterkopf, Westphal, Gompert, Huber, Wayman, and Estrada. “NAYS”: None.  
113 ABSTAIN: None. ABSENT: Chadwick and Weber. Motion carried

114  
115 **ITEM 7D:** The Planning Commission opened a public hearing for a request to vacate ordinance with  
116 vacate plat map. The applicant(s), Jason & Sami Webb, represented by Baker and Associates, have  
117 requested approval of the ordinance to vacate with a vacation plat of Block 9, Five Oaks Subdivision.  
118 This will allow for a new final plat of Block 9 which will consist of two parcels of approximately 11.08±  
119 acres. The property is situated south of 42nd Street, east of Highway 71, (SE corner of Avenue I and  
120 42nd St.). The vacate is part of the revised preliminary plat which removed 41st Street between Avenue  
121 G and Red Cedar Drive (Red Cedar Drive was also removed) this was the cleanest way to start over for the new  
122 proposed plat.

123  
124 **Conclusion:** A motion was made by Zitterkopf and seconded by Aguallo to approve the ordinance to  
125 vacate and plat map for Block 9, Five Oak Subdivision situated in the NW ¼ of Section 14, T22N, R55W  
126 of the 6th P.M., City of Scottsbluff, Scotts Bluff County, Nebraska. “YEAS”: Aguallo, Zitterkopf,  
127 Westphal, Gompert, Huber, Wayman, and Estrada. “NAYS”: None. ABSTAIN: None. ABSENT:  
128 Chadwick & Weber. Motion carried

129  
130 **ITEM 7E:** The Planning Commission opened a public hearing for a request from property owners, C & T  
131 Holdings, and Jason and Sami Webb, represented by Baker and Associates for a final plat described as  
132 Lots 1 & 2, Block 9, Five Oaks Subdivision, situated in NW ¼ of Section 14, T22N, R55W of the 6th  
133 P.M., City of Scottsbluff, Scotts Bluff County, NE. The property is situated south of 42nd Street, east of  
134 Highway 71, (SE corner of Avenue I and 42nd St.).

135  
136 They also ask the Planning Commission to approve a change in the street right of way for 42<sup>nd</sup> Street.  
137 The plat submitted shows a 33’ foot right of way. The City asked for a 50’ right of way to match the rest  
138 of 42nd Street to the east, which is what is required by code. The property owners requested a 40’ right  
139 of way for the area along Block 9, Five Oaks Subdivision. By code, the right of way for arterial streets  
140 must be a minimum of 80’ to 150’ so the 40’ right of way would meet that requirement, but would not  
141 meet the requirement that the right of way match what is provided on adjoining properties. The property  
142 owners stated that they would add an additional seven feet from Block 9 to the right of way for a total of  
143 forty feet. This change will be reflected in the updated final plat for City Council review.

144  
145 Jack Baker from Baker and Associates addressed the Planning Commission stating if the road were  
146 expanded to a similar cross section to what is currently in place east of Avenue G, the total width with  
147 curb & gutter would be about 40’ from back of curb to back of curb. This equates to about 15’ additional  
148 feet of paving to the south of what is currently in place. This includes a 5’ sidewalk, there is room  
149 available within a 40’ south half right of way along 42nd Street to expand 42nd street at some future with  
150 three lanes and still have about 12’ or more from the Right of way to back of sidewalk. Baker stated that  
151 allowing an 80’ Right of way corridor through this section of 42nd Street will satisfy the space needed for  
152 expansion of 42nd Street and not significantly impact the proposed development site. The City Code  
153 does allow for the Planning Commission and City Council to approve a lesser right of way. A developer’s

154 agreement will also be submitted for City Council to review on the proposed development for this area of  
155 Five Oaks.

156  
157 **Conclusion:** A motion was made by Zitterkopf and seconded by Westphal to approve the final plat of  
158 Lots 1 and 2, Block 9, Five Oaks Subdivision, situated in the NW ¼ of Section 14, T22N, R55W of the  
159 6th P.M., City of Scottsbluff, Scotts Bluff County, Nebraska with the additional seven feet in right of way  
160 for a total of 40' and Council approval of the change. "YEAS": Aguallo, Zitterkopf, Westphal,  
161 Gompert, Huber, Wayman, and Estrada. "NAYS": None. ABSTAIN: None. ABSENT: Chadwick  
162 & Weber. Motion carried

163  
164 **ITEM 7F.** The Planning Commission opened a public hearing for a zone change request from C&T  
165 Holdings LLC for property described as part of Lots 1 & 2, Block 9, Five Oaks Subdivision, NW ¼ of  
166 Section 14, T22N, R55W of the 6th P.M., City of Scottsbluff, Scotts Bluff County, NE. The new final  
167 plat of Block 9 is zoned C-2 and Ag, the request is to rezone the remainder of the new area to C-2, this 3±  
168 acres is currently zoned Ag. The change in zoning will match the rest of Block 9 to the west.

169  
170 **Conclusion:** A motion was made by Wayman and seconded by Zitterkopf to approve the zone change  
171 request of part of Lots 1 & 2, Block 9 Five Oaks, situated in the NW ¼ of Section 14, T22N, R55W of the  
172 6th P.M., City of Scottsbluff, Scotts Bluff County, Nebraska from Agricultural to C-2 Neighborhood &  
173 Retail Commercial. "YEAS": Aguallo, Zitterkopf, Westphal, Gompert, Huber, Wayman, and Estrada.  
174 "NAYS": None. ABSTAIN: None. ABSENT: Chadwick & Weber. Motion carried

175  
176 **ITEM 8. Unfinished Business:** None.

177  
178 There being no further business, a motion to adjourn was made by Westphal and seconded by Aguallo.  
179 The meeting was adjourned at 6.35 p.m. "YEAS": Gompert, Wayman, Westphal, Aguallo, Zitterkopf,  
180 Huber, and Estrada. "NAYS": None. **ABSTAIN:** None. **ABSENT:** Chadwick & Weber. Motion  
181 carried.

182  
183  
184 \_\_\_\_\_  
185 Becky Estrada, Chairperson

186  
187 Attest: \_\_\_\_\_  
188 Annie Urdiales

June 11, 2015

Honorable Mayor Randy Meininger  
Members of the City Council  
2525 Circle Drive  
Scottsbluff, Nebraska, 69361

RE: Petition to Vacate Block 9, Red Cedar Drive and West Oak Blvd. Access Easement  
Five Oaks Subdivision

We, Jason and Sami Webb, the owners of Block 9, Five Oaks Subdivision, City of Scottsbluff, Scotts Bluff County, Nebraska and Unplatted Lands, hereby request the Scottsbluff City council to vacate:

**BLOCK 9 PROPERTY DESCRIPTION (FOR VACATION)**

A parcel of land known as Block 9 of the Five Oaks final plat, containing 340,728 sq. Ft. (7.82 acres), more or less, in the northwest quarter of Section 14, Township 22 North, Range 55 West, of the 6th principal meridian, in the City of Scottsbluff, Scotts Bluff county, Nebraska, said tract or parcel being more particularly described as follows:

**Commencing** at the northwest corner of Section 14, Township 22 North, Range 55 West, of the 6th Principal Meridian, being a found 1" diameter steel bolt, flush in the surface of Highway 71, stamped in part "survey mark", whence the west quarter corner of said Section 14, being a found 2" diameter aluminum cap, flush in the surface of Highway 71, no stamping found, bears South 02°03'39" West, a distance of 2675.32 feet; thence along said west line of Section 14, South 02°03'39" West, a distance of 770.84 feet; thence South 87°56'21" East, a distance of 65.00 feet to a point on the existing westerly right of way of State Highway 71 and to the **point of beginning**;

thence along the said existing east right of way line, North 02°03'39" East, a distance of 262.75 feet; thence continuing along said existing east right of way line North 02°37'26" East, a distance of 475.46 feet, thence along the existing south right of way line of 42nd Street, South 88°13'30" East, a distance of 433.44 feet to a point on the west right of way line of Red Cedar drive; thence along said west right of way line, South 01°52'51" West, a distance of 813.15 feet; thence on the arc of a curve to the right, a radius of 20.00 feet, a central angle of 90°00'00", a distance of 31.42 feet, (a chord bearing South 46°52'51" West, a distance of 28.28 feet) to a point on north right of way line of West Oak Blvd.; thence continuing the following (5) five courses along the said north right of way line:

1. North 88°07'09" West, a distance of 5.05 feet;
2. Thence on the arc of a curve to the right, a radius of 174.00 feet, a central angle of 20°00'00", a distance of 60.74 feet, (a chord bearing North 78°07'09" West, a distance of 60.43 feet);
3. Thence North 68°07'09" West, a distance of 204.03 feet;
4. Thence on the arc of a curve to the left, a radius of 226.00 feet, a central angle of 19°49'11", a distance of 78.18 feet, (a chord bearing North 78°01'45" West, a distance of 77.79 feet);
5. Thence North 87°56'20" West, a distance of 87.56 feet to a point on the existing east right of way line of State Highway 71 and to the point of beginning.

**RED CEDAR DRIVE AND WEST OAK BLVD. ACCESS EASEMENT (FOR VACATION)**

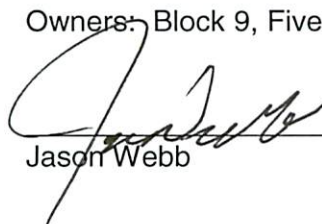
A street right of way known as Red Cedar Drive and West Oak Blvd. of the Five Oaks Final plat, containing 69,809 sq. ft.(1.60 acres), more or less, in the northwest quarter of Section 14, Township 22 North, Range 55 West of the 6th Principal Meridian, in the City of Scottsbluff, Scotts Bluff County, Nebraska, said tract or parcel being more particularly described as follows:

**Commencing** at the Northwest corner of Section 14, Township 22 North, Range 55 West, of the 6th Principal Meridian, being a found 1" diameter steel bolt, flush in the surface of Highway 71, stamped in part "survey mark", whence the west quarter corner of said Section 14, being a found 2" diameter aluminum cap, flush in the surface of Highway 71, no stamping found, bears South 02°03'39" West, a distance of 2675.32 feet; thence along said west line of Section 14, South 02°03'39" West, a distance of 770.84 feet; thence South 87°56'21" East, a distance of 65.00 feet to a point on the existing westerly right of way of State Highway 71 and to the **point of beginning**;

thence South 87°56'20" East, a distance of 87.56 feet;  
thence on the arc of a curve to the right, a radius of 226.00 feet, a central angle of 19°49'11", a distance of 78.18 feet, (a chord bearing South 78°01'45" East, a distance of 77.79 feet);  
thence South 68°07'09.09" East, a distance of 204.03 feet;  
thence on the arc of a curve to the left, a radius of 174.00 feet, a central angle of 20°00'00", a distance of 60.74 feet, (a chord bearing South 78°07'09" East, a distance of 60.43 feet);  
thence South 88°07'09" East, a distance of 5.04 feet;  
thence on the arc of a curve to the left, a radius of 20.00 feet, a central angle of 90°00'00", a distance of 31.42 feet, (a chord bearing North 46°52'51" East, a distance of 28.28 feet);  
thence North 01°52'51" East, a distance of 813.15 feet;  
thence South 88°13'30" East, a distance of 52.00 feet;  
thence South 01°52'51" West, a distance of 885.25 feet;  
thence North 88°07'09" West, a distance of 77.04 feet;  
thence on the arc of a curve to the right, a radius of 226.00 feet, a central angle of 20°00'00", a distance of 78.89 feet, (a chord bearing North 78°07'09" West, a distance of 78.49 feet);  
thence North 68°07'09" West, a distance of 204.03 feet;  
thence on the arc of a curve to the left, a radius of 174.00 feet, a central angle of 19°49'11", a distance of 60.19 feet, (a chord bearing North 78°01'45" West, a distance of 59.89 feet);  
thence North 87°56'20" West, a distance of 87.56 feet;  
thence North 02°03'39" East, a distance of 52.00 feet, point of beginning.

Dated this 11<sup>th</sup> day of June, 2015

Owners: Block 9, Five Oaks Subdivision

  
\_\_\_\_\_  
Jason Webb

  
\_\_\_\_\_  
Sami Webb



ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF SCOTTSBLUFF, NEBRASKA, VACATING BLOCK 9, FIVE OAKS SUBDIVISION, CITY OF SCOTTSBLUFF, SCOTTS BLUFF COUNTY, NEBRASKA SITUATED IN THE NORTHWEST QUARTER OF SECTION 14, TOWNSHIP 22 NORTH, RANGE 55 WEST OF THE 6<sup>TH</sup> P.M., IN SCOTTS BLUFF COUNTY, NEBRASKA.**

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

Section 1. The owners of the property involved have requested the City of Scottsbluff vacate the following property to allow for a replat:

Block 9, Five Oaks Subdivision, City of Scottsbluff, Scotts Bluff County, Nebraska situated in the Northwest Quarter of Section 14, Township 22 North, Range 55 West of the 6<sup>th</sup> P.M., in Scotts Bluff County, Nebraska.

As more fully set forth in the vacation plat, marked as Exhibit "A", to this Ordinance and incorporated by this reference.

Section 2. The City Council finds that the requesting parties are the Owners and that it is in the best interest of the City that the property be vacated as requested.

Section 3. Block 9, Five Oaks Subdivision, City of Scottsbluff, Scotts Bluff County, Nebraska situated in the Northwest Quarter of Section 14, Township 22 North, Range 55 West of the 6<sup>th</sup> P.M., in Scotts Bluff County, Nebraska, is hereby vacated to allow for a replat of the property.

Section 4. This Ordinance shall become effective upon its passage, approval and publication as provided by law.

PASSED AND APPROVED on \_\_\_\_\_, 2015.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk (Seal)

APPROVED TO FORM:

\_\_\_\_\_  
City Attorney