

City Council Agenda Memo

From: Jackie Lanning, City Engineer

Council Meeting: June 30, 2020

Subject: Encroachment Easement for 420 Main Avenue
Encroachment into Public Right-of-Way

Person(s) Responsible: Jackie Lanning, City Engineer

Summary:

This resolution will amend the criteria for building in the public right-of-way.

Background:

The City Council adopted Resolution 20-017 on February 25, 2020, to revise the criteria for building in the public right-of-way (attached). The City Council also adopted an amendment to the City Ordinance to allow construction in the public right of way. The follow is an excerpt from Brookings City Ordinance Chapter 74-32:

Sec. 74-32. - Building upon public right-of-way prohibited; exceptions.

- (a) No person may erect or maintain any building in a location or position that the building shall stand, in whole or in part, upon any public street, road, alley or sidewalk in the city.*
- (b) No building may be constructed so that any part of the building shall project into or over any street, road, alley or sidewalk, except jut windows, cornices and other projections from a building above the first story may extend over an adjoining street, road, alley or sidewalk a distance not exceeding 18 inches.*
- (c) No person, without written authorization from the city council as provided in this section, may construct any improvement, including any step, deck, landing or other entrance to any building extending over or upon the sidewalk, nor shall any person erect in or upon any public street, alley or road any flight of stairs or steps leading to any floor of any building.*
- (d) Any building or improvement erected or maintained in violation of this section shall be deemed a public nuisance and may be abated.*
- (e) Any person seeking authorization to construct a step, deck, landing or other entrance to any building located within the B-1 central business district which will extend over or upon the sidewalk shall first file an application with the city engineer.*
- (f) The city engineer, upon receipt of an application for authorization which conforms to the criteria, standards and specifications established by resolution of the city council, shall issue a recommendation concerning a request to construct an improvement to extend upon or over the sidewalk within the B-1 central business*

district in the city; provided, however, that the erection of such constructed improvement shall not occur unless approved by the city council, and if approved, shall be in conformity with the criteria, standards and specifications approved by the city council and on file in the office of the city engineer.

- (g) *The city council, upon receiving the city engineer's recommendation, may issue a written authorization and easement to construct an improvement upon the public sidewalk within the B-1 central business district upon such terms and conditions as the city council determines appropriate in the circumstances.*

(Code 1996, § 33-34; Ord. No. 24-04, § I, 11-23-2004)

Item Details:

The City Engineering Department received a request to construct two doorways at 420 Main Avenue such that the doors swing into the public right-of-way on Main Avenue. The request involves a north double door and a south single door.

The property owner applied for and obtained a building permit for a remodeling project that included door installation. The site plan approved by the Engineering Department showed that the previous alcove for the north double doors would be replaced and the alcove would remain so the new doors would not swing into the right-of-way. The site plan for the south door showed the new door swinging into the right-of-way, however, staff did not receive shop drawings on the doors or windows to determine the size of the encroachment.

The property owner supplied the attached information:

- Description of reasons for encroachment
- Red-line drawings showing the encroachment locations
- Survey drawing with encroachment dimensions
- Insurance Certificate

Engineering staff reviewed the submitted information. Staff is recommending the following:

- The north double doors previously had an alcove which was shown to remain in the approved building plans. Staff recommends the doors should be constructed as an alcove as approved by the Engineering Department on the building permit to remove the encroachment into the right of way. The alcove would prevent the doors from swinging into the right-of-way.
- The south door previously encroached approximately 21 inches into the right of way, and the new door was constructed with a flush-mount hinge system, which creates a 2.9-foot encroachment when the door is fully open.
 - The criteria in Resolution 20-017 (1) states “*The applicant shall explore other alternatives that might remove the need for the use of public property*”. The submitted plans showed the door swinging into the right-of-way, however, staff did not receive shop drawings on the doors or windows to determine the size of the encroachment. After the doorway was constructed, the City received the exhibit from Civil Design Inc. which

showed the 2.9' encroachment. It is City staff's opinion that other alternatives were not explored, such as constructing an alcove. Another alternative would be to swing the door inward. The City would allow the door to swing inward since the design inside the building has changed where the occupancy could be limited to 49 people and a sign would need to be posted.

- Staff recommends installing the door to remove the encroachment from the right-of-way.

The following exhibits are provided:

- Resolution 20-017 Criteria for Building in the Public Right of Way
- Ordinance 74-32 Building Upon Public Right of Way Prohibited; Exceptions
- Exhibit A: Application
- Exhibit B: City pictures of door locations

Legal Consideration:

The City Council would have the authority to grant authorization for the encroachment. If granted, the City will draft an easement to reflect the approved encroachment.

Strategic Plan Consideration:

NA

Financial Consideration:

None.

Options and Recommendation:

Staff is recommending the following motion: "Motion to remove the encroachment into the public right-of-way for both the north door and the south door at 420 Main Avenue."

The City Council has the following options:

1. Approve the motion as presented.
2. Deny
3. Amend the motion
4. Move the item to a work session
5. Do nothing

Supporting Documentation:

1. Resolution 20-017
2. Ordinance 74-32
3. Application
4. Pictures