RESOLUTION NO. 23-288

A RESOLUTION GRANTING FINAL PLAT APPROVAL OF A ONE-LOT MINOR INDUSTRIAL SUBDIVISION TO BE KNOWN AS THE ICECAP RAIL PARK, LEGALLY DESCRIBED AS BEING A REPLAT OF LOTS 1-6, BLOCK 29, AND LOTS 7-12 AND THE ADJACENT VACATED 16TH AVENUE RIGHT-OF-WAY, BLOCK 36, FLEMING AND DAVIS' ADDITION, ALONG WITH PART OF THE SE1/4 SW1/4 OF SECTION 35-75-44 AND PART OF THE NORTH HALF OF SECTION 2-74-44, ALL IN THE CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

WHEREAS, Monte Froehlich is requesting final plat approval for a one-lot minor industrial subdivision on land legally described above and located at 1720 16th Avenue; and

WHEREAS, The Community Development Department provided the following comments:

A. The proposed subdivision is consistent with the Bluffs Tomorrow: 2030 Plan (comprehensive plan) as well as the purpose and intent of the Council Bluffs Subdivision and Zoning Ordinances.

B. The proposed subdivision is primarily zoned I-2/General Industrial District, along with a small area of R-2/Two-Family Residential District over current Lots 1-6, Block 29, Fleming and Davis' Addition. The subject property currently contains the IceCap Cold Storage facility, and the applicant plans to keep the existing R-2 zoning in place as a buffer between the industrial use on the subject property and the adjacent residential neighborhood. The Community Development Department recommends that the R-2 portion of the subject property be rezoned for zoning consistency purposes prior to execution of the final plat, however such rezoning is not required in order to approve the new subdivision. Rezoning prior to execution of the subdivision would be simpler, as the R-2 portion of the subject property consists of multiple separate platted lots. After the new subdivision is executed and recorded, rezoning of the R-2 zoned portion of Lot 1 would require the applicant to provide a new legal description of the portion of the lot to be rezoned. The applicant has been made aware of this.

C. The proposed lot exceeds the minimum 15,000 square-foot lot size required within the I-2 zoning district and the minimum 5,000 square-foot lot size required in the R-2 zoning district.

D. The proposed lot has frontage along 14th Avenue, 15th Avenue, 16th Avenue, and South 17th Street. For zoning purposes, the frontage along 14th Avenue shall be considered the front yard, and all other frontages shall be considered street side yards.

E. The proposed subdivision is located within Flood Zone 'X,' according to FEMA Flood Insurance Rate Map panel number 19155C0576E, dated February 4, 2005, and is protected from flooding by a levee along the Missouri River.

F. Proposed Lot 1 is currently developed and serviced with adequate utilities. All future utilities shall be installed underground. Any cost to construct,

extend, remove, and/or relocate any utilities within or to this subdivision shall be the sole responsibility of the developer and not the City.

G. The proposed subdivision contains a portion of vacated 16th Avenue right-of-way (see Reso. 23-167). Conditions of the vacation and disposal of said right-of-way required that easements be reserved over the easterly 72 feet for public water infrastructure and over the northerly 15 feet for electric lines. The applicant has shown both easements on the plat and has indicated the book and page number where the water main easement is recorded. The plat does not reference a book and page number for the electric utility easement. The applicant should similarly record the electric utility easement and note its book and page number on the final plat.

H. All City departments and local utility providers were provided a copy of the proposed final plat to review. No comments were received.

I. The following technical corrections shall be made to the final plat prior to being signed by the City:

1. Electric utility easements noted on the final plat shall be recorded prior to execution by the City, and the book and page numbers shall be referenced on the final plat.
2. The applicant shall assign ownership of the property within the proposed subdivision to a single entity prior to execution by the City. The final plat shall contain one signature line for the entity that will own the subdivision, and additional signature lines and references to other owners shall be removed from the final plat.
3. The applicant shall add the City's standard franchise utility easement language to the final plat. This language shall read as follows:
    a. A 5-foot wide easement on all side lot lines and a 10-foot wide easement along all front and rear lot lines is reserved for the installation and maintenance of utilities:
        (1) Erection of structures prohibited: Grantor shall not erect any structure over or within the easement area without obtaining the prior written consent of the city engineer, provided however grantor shall have the right to place and maintain a surfaced roadway over and within the easement area,
        (2) Change of grade prohibited: Grantor shall not change the grade, elevation or contour of any part of the easement area without obtaining prior written consent of the city engineer.
        (3) Right of access: City shall have the right of access to the easement area and have all right if ingress and egress reasonably necessary for the use and enjoyment of the easement area as herein described.

(4) Removal and replacement: The cost of removal and replacement of any unauthorized improvement or structures within the easement area, necessitated by the exercise of the rights under this easement, shall be borne by the grantors or their successors or assigns.

(5) Surface restoration: The city's liability to restore the surface within the easement area shall be limited only to grading and seeding, and replacement of grantor's surfaced roadway.

(6) Duty to repair City agrees that any drain tile, drive or access way, fence, yard or other improvements outside of the easement area which may be damaged as a result of any entry made through an exercise of the city's right of access shall be repaired at no expense to the grantor.

(7) Easement runs with the land: This easement shall be deemed to run with the land and shall be binding on grantor and on grantor's successors and assigns.

(8) Grantor reservation: Grantor reserves the right to use the easement area for other purposes provided however these purposes shall not interfere with grantee's use of the easement area under the rights of this agreement.

4. Change all references to "IceCap Addition" to say "IceCap Rail Park" for naming consistency; and

WHEREAS, The Community Development Department recommends final plat approval of a one-lot minor industrial subdivision to be known as the IceCap Rail Park, legally described as being a replat of Lots 1-6, Block 29, and Lots 7-12 and the adjacent vacated 16th Avenue right-of-way, Block 36, Fleming and Davis' Addition, along with part of the SE1/4 SW1/4 of Section 35-75-44 and part of the north half of Section 2-74-44, all in the City of Council Bluffs, Pottawattamie County, Iowa, as shown on Attachment 'B', subject to all comments stated above and following conditions:

A. All technical corrections shall be incorporated into the final plat document prior to being executed; and

B. The final plat shall be recorded within 90 days of City Council approval or the plat shall become null and void unless an extension of time has been granted by the Community Development Department Director; and

C. All development shall conform to all City standards and specifications, the zoning and subdivision ordinances and the Department of Public Works Standards for Public Improvements; and

D. All utilities shall be installed underground. Any cost to remove and/or relocate any utilities shall be the sole expense of the applicant and not the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COUNCIL BLUFFS, IOWA

That the request for final plat approval of a one-lot minor industrial subdivision to be known as the IceCap Rail Park, legally described as being a replat of Lots 1-6, Block 29, and Lots 7-12 and the adjacent vacated 16th Avenue right-of-way, Block 36, Fleming and Davis' Addition, along with part of the SE1/4 SW1/4 of Section 35-75-44 and part of the north half of Section 2-74-44, all in the City of Council Bluffs, Pottawattamie County, Iowa, is hereby approved.

BE IT FURTHER RESOLVED

That the Mayor and City Clerk are hereby authorized and directed to endorse the final plat.

ADOPTED
AND October 23, 2023.
APPROVED

_____
MATTHEW J. WALSH Mayor

Attest: _____
JODI QUAKENBUSH City Clerk