Council Communication

Department: Community Development CASE #SUB-24-007 Applicant/Owner: T S Development LLC c/o Gerald Torczon 11205 S. 150th Street, Suite 100 Omaha, NE 68138 Engineer/Representative: Charles Huddleston P.E. Schemmer 215 South Main Street, Suite 101 Council Bluffs, IA 51503	Resolution No. _____	City Council: 12/16/2024

Subject/Title

Request: Final plat approval of a three-lot mixed commercial-residential subdivision to be known as Whispering Oaks, Phase V, being legally described as part of the SE1/4 NE1/4 of Section 5-74-43, and part of the SW1/4 NW1/4 of Section 4-74-43, all in the City of Council Bluffs, Pottawattamie County, Iowa, and being more particularly described in Attachment 'A' of the case staff report.

Location: Undeveloped land lying north of Greenview Road between Forest Glen Drive and Franklin Avenue.

Background/Discussion

The Community Development Department has received a request from TS Development, LLC, represented by Charles Huddleston of Schemmer, for final plat approval of a three-lot mixed commercial-residential subdivision to be known as Whispering Oaks Phase V (Attachment A). The proposed subdivision totals 27.34 acres and is located immediately north of Greenview Road between Forest Glen Drive and Franklin Avenue. All lots within the proposed subdivision will be developed with either multi-family residential dwellings or mixed commercial/residential dwellings. The proposed subdivision final plat also includes dedication of a new section of Sycamore Street to the City of Council Bluffs.

The preliminary subdivision plan for Whispering Oaks Phase V was approved by the Council Bluffs City Council on May 23, 2022 by Resolution No. 22-145. Since the date of approval, the preliminary plan was granted two one-year extensions of time by the City's Planning Commission to allow the developer additional time to construct a sanitary sewer lift station that services Whispering Oaks Phases IV and V, along with other public infrastructure (i.e. water mains, Greenview Road improvements, Sycamore Street extension, etc.). The deadline for the developer to receive final plat approval on their latest one-year extension of time for Whispering Oaks Phase V is May 23, 2025; otherwise the preliminary plans will become null and void. In general, the proposed final plat is consistent with the approved Whispering Oaks Phase V preliminary plans.

Comments

1. The proposed subdivision is consistent with the purpose and intent of the Council Bluffs Municipal Subdivision and Zoning Ordinances.
2. The subject property is zoned R-3/Low-Density Residential District (see Attachment A) with an appended PR/Planned Residential Overlay. Lots 2 and 3, Whispering Oaks, Phase V have an approved PR/Planned Residential Development Plan (CASE #PR-22-006, Resolution No. 6491) to allow 274 multi-family residential dwellings and 12,000 square feet of commercial retail space. Lot 1 is reserved for a future residential development (i.e., assisted living facility) and will require an adopted PR development plan prior to issuance of any building permits. Outlots A, B, and C are reserved for utilities and greenspace/landscape buffers along Greenview Road. All three outlots will be dedicated to the homeowners association in Whispering Oaks Phase V as part of the proposed final plat. All building construction within the proposed subdivision shall comply with their adopted PR/Planned Residential development plans, as approved by City Council.
3. All proposed lots comply with minimum R-3/Low-Density Multi-Family Residential District lot size requirements.
4. All lots within the development have frontage and access to a public roadway - Forest Glen Drive, Greenview Road, Franklin Avenue, and/or Sycamore Street. A southerly extension of Sycamore Street, which connects into Greenview Road, is currently under construction and will be dedicated to the City of Council Bluffs as part of the final plat.
5. Public infrastructure improvements (i.e., sanitary sewer, storm sewer, water, and Greenview Road widening and trail) are still in the process of being constructed by the applicant for Whispering Oaks Phase V. Section 14.12.070, *Performance Guarantees* of the Council Bluffs Subdivision Ordinance allows a developer to establish an escrow account with the City in lieu of actual and immediate construction of any required improvement for a subdivision. The developer's engineer submitted an opinion of probable cost (OPC) of $2,646,500.00 for all remaining infrastructure in Whispering Oaks Phases IV and V. They also provided a check in the amount of $1,280,767.66 to the City of Council Bluffs for all outstanding infrastructure items associated with Whispering Oaks Phases IV and V. The difference between the OPC and the submitted escrow check is $1,365,732.34, which takes into account a pending $750,000.00 grant from the City, as well as, payments made to MidAmerican Energy for streetlights ($55,198.77) and Compass Utilities ($308.864.36 and $251,669.21). The escrow account is being held in the City Clerks' office until such time all remaining infrastructure items outlined in the engineer's opinion of probable cost are completed, inspected, and approved by the Council Bluffs Public Works Department. Once all work is completed, the escrow funds will be returned.
6. Building permits for new construction in Whispering Oaks Phase V may be issued while the sanitary sewer lift station is under construction; however, no final Certificate of Occupancy for any residential and/or commercial structure shall be granted until said lift station is inspected and approved by the Council Bluffs Public Works Department and is fully operational.
7. The Council Bluffs Public Works Department stated all sanitary sewer easements shall be dedicated to the City of Council Bluffs on the final plat.
8. The Council Bluffs Fire and Police Departments stated they have no comments for the final plat.
9. MidAmerican Energy stated they have no conflicts or concerns regarding the proposed final plat.
10. All electric, cable and communication facilities shall be installed underground. All costs to construct, remove and/or relocate any utilities for the proposed subdivision shall be the responsibility of the applicant and not the City.
11. Sidewalk installation along Sycamore Street shall be completed at the time of street construction at no cost to the City. Sidewalk installation along Franklin Avenue shall be completed prior to issuance of the first Certificate of Occupancy for Lot 3, Whispering Oaks Phase V, at no cost to the City. All sidewalks shall be built to City standards.

12. A copy of the any private easements/covenants shall be provided to the City and recorded with the final plat.
13. The following technical corrections shall be made to the final plat prior to being executed:
    a. State the area of Lot 3, Whispering Oaks Phase V as part of the "Lot Area Table".
    b. Proprietor's Statement:
        i. Provide a statement that dedicates all sanitary sewer easements on Lots 2 and 3, Whispering Oaks Phase V to the City of Council Bluffs.
    c. Update the seventh line of the legal description paragraph to state "…Lots 87, 88, 89, and 90, Whispering Oaks, and Lots 151, 152, and 153, Whispering Oaks Phase IV".

Recommendation

The Community Development Department recommends final plat approval for a three-lot mixed commercial-residential subdivision to be known as Whispering Oaks Phase V, as legally described above and as shown on Attachment 'A', 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 has been requested and granted by the Community Development Department Director; and
c. 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; and
e. The applicant shall provide a copy of any proposed covenants and/or private restrictions associated with the subdivision to the City, or place a note on the final plat indicating none will be recorded; and
f. Sidewalk installation along Sycamore Street shall be completed at the time of street construction at no cost to the City. Sidewalk installation along Franklin Avenue shall be completed prior to issuance of the first Certificate of Occupancy for Lot 3, Whispering Oaks Phase V, at no cost to the City. All sidewalks shall be built to City standards; and
g. Building permits for new construction in Whispering Oaks Phase V may be issued while the sanitary sewer lift station is under construction; however, no final Certificate of Occupancy for any residential and/or commercial structure shall be granted until said lift station is inspected and approved by the Council Bluffs Public Works Department and is fully operational; and
h. The developer shall provide the City with two sets of as-built construction drawings and a two-year maintenance bond, upon acceptance of all required improvements.

Attachment

Attachment A: Whispering Oaks Phase V final plat
Attachment B: Location and zoning map

Surveyor: Mark Fredrickson, Schemmer, 215 South Main Street Suite 101, Council Bluffs, IA 51503

Prepared by: Christopher N. Gibbons, AICP, Planning and Code Compliance Manager