City Council Communication

Department: Community Development CASES #SUB-25-004 and #ZC-25-002 Applicant/Property Owner: Patrick and Rhonda Cunningham 1305 State Orchard Road Council Bluffs, IA 51503 Engineer/Surveyor: Jeffrey D. Dimon, PLS HGM Associates Inc. 640 5th Avenue Council Bluffs, IA 51501	Ordinance No. _____ Resolution No. _____	City Council CASE #ZC-25-002 1st Consideration: 6/9/2025 2nd Consideration: 6/23/2025 3rd Consideration: 7/14/2025 CASE #SUB-25-004: 6/23/2025 Planning Commission: 5/13/2025

Subject/Title

Request: Combined public hearings on the request of Patrick and Rhonda Cunningham for final plat approval of a two-lot residential estate subdivision to be known as Tweety's Landing, along with a subdivision variance to allow proposed Lot 1, Tweety's Landing to exceed the maximum 3:1 lot depth-to-width ratio, on property legally described Parcel 25028 being a portion of North 1/2 of the South 1/2 of the SW 1/4 of Section 34-75-43, City of Council Bluffs, Pottawattamie County, Iowa and to rezone said property from A-2/Parks, Estates, and Agricultural District to R-1E/Single-Family Residential Estate District.

Location: 1305 State Orchard Road, Council Bluffs, Iowa 51503

Background

The Community Development Department has received applications from Patrick and Rhonda Cunningham for the following requests:

1. Case #SUB-25-004: Final plat approval of a two-lot residential subdivision to be known as Tweety's Landing, legally described as Parcel 25028 being a portion of North 1/2 of the South 1/2 of the SW 1/4 of Section 34-75-43, City of Council Bluffs, Pottawattamie County, Iowa. The applicant is also requesting a subdivision variance to allow proposed Lot 1 to exceed the maximum 3:1 lot depth-to-width ratio; and
2. Case #ZC-25-002: Rezone properties legally described above from A-2/Parks, Estates and Agricultural District to R-1E/Single-Family Residential Estates District.

The applicant owns property at 1305 State Orchard Road and the undeveloped agricultural parcel adjacent (Parcel #754334300017). The purpose of the above subdivision request is to combine their landholdings and create two lots of record. Proposed Lot 1 (37.786 acres) will contain the existing single-family dwelling, associated accessory structures, and agricultural land. Proposed Lot 2 (1.007 acres) will be developed with a detached single-family residential dwelling for the applicants son. All properties in this request are zoned A-2/Parks, Estates and Agricultural District, which allows a single-family detached dwelling as a principal use. The minimum lot size in an A-2 District is three acres. The proposed rezoning from A-2 to R-1E will allow for the creation of proposed Lot 2, as the minimum lot size for the R-1E District is one acre.

CASE #SUB-25-004

The proposed Tweety's Landing subdivision contains 39.14 acres, more or less, of land that will be subdivided into two residential estate lots and includes the dedication of 0.348 acres for State Orchard Road right-of-way. Proposed Lot 1 (37.786 acres) will contain the existing single-family dwelling, associated accessory structures, and agricultural land. Proposed Lot 2 (1.007 acres) will be developed with a detached single-family residential dwelling for the applicants son. All lots will have direct frontage onto State Orchard Road; however, proposed Lot 2 will be accessed by a 20-foot-wide shared easement. The proposed final plat is included as Attachment 'A.'

Comments

A. The proposed subdivision is consistent with the purpose and intent of Title 14: Subdivisions of the Council Bluffs Municipal Code. The applicant has submitted a request to rezone proposed Lots 1 and 2, Tweety's Subdivision (see Case #ZC-25-002) from A-2/Parks, Estates, and Agricultural District to R-1E/Single-Family Residential Estates District to ensure the proposed subdivision is consistent with Title 15: Zoning of the Council Bluffs Municipal Code.

B. All proposed lots comply with minimum one acre R-1E/Single-Family Residential Estates District lot size requirements, as stated below:
    1. Proposed Lot 1 contains 37.786 acres of land (more/less); and
    2. Proposed Lot 2 contains 1.007 acres of land (more/less).

The minimum lot dimension requirements for property zoned R-1E District are 125' wide (measured at the building setback line) and 200' deep. Proposed Lot 1 will measure 660.23' wide by 2631.37' deep, which exceeds the maximum 3:1 lot depth-to-width ratio as stated in Section 14.14.020 *Lot Layout* of the Council Bluffs Subdivision Ordinance. As such, the applicants have requested a subdivision variance from the Council Bluffs City Council as part of the approval of their proposed Tweety's Landing final plat. Section 14.11.040(A) of the Council Bluffs Subdivision Ordinance states: *"Where it can be shown that due to special conditions, a literal enforcement of this ordinance will result in an unnecessary hardship, the City shall the power to vary such regulation so that substantial justice will be accomplished, provided that such variance would:*

1. *Not be in contrary to the public interest;*
2. *Be in the best interest of the City;*
3. *Be within the spirit and intent of this title;*
4. *Not be detrimental to the future residents in and near the proposed subdivision;*
5. *Be consistent with the City's comprehensive plan."*

The Community Development Department has reviewed the applicant's variance request and recommends approval for the following reasons:

i. The proposed subdivision is designed to be compatible with existing development in the surrounding area and is being laid out in such a manner to allow for further subdivision/development activity in the future. The subdivision variance is not anticipated to be detrimental to residents in and/or adjacent to the subdivision.

ii. Proposed Lot 1, Tweedy's Landing is comprised of two existing lots of record that are being combined together to create a larger 37.7 acre tract of land. The applicants have to combine the two lots together as part of this final plat effort in order to avoid creating a landlocked parcel. This requirement causes proposed Lot 1 to exceed the maximum 3:1 lot depth-to-width ratio and thus a variance is necessary.

iii. Proposed Lot 2 will be developed with a new single-family residential dwelling and proposed Lot 1 will continue to be utilized by the applicants as their primary residence. The size and shape of Lot 1 allows for further subdivision action(s) to occur in order to facilitate additional housing opportunities in the City.

iv. The Bluffs Tomorrow: 2030 Plan (Comprehensive Plan) encourages housing diversity in order to meet the needs of the community and ensure the long-term stability of residential neighborhoods. The proposed subdivision final plat is consistent with this policy and is in the best interest of the City as it will increase access and diversify housing options in Council Bluffs.

C. All development on the proposed lots shall comply with the site development standards listed in Section 15.08A.050, *Site Development Regulations*, for the R-1E District. The applicant shall provide documentation to the City's Community Development Department that shows the existing residential dwelling on proposed Lot 1 will have conforming R-1E District setbacks, prior to the final plat being executed by the City and recorded with the Pottawattamie County Recorder's Office.

D. No new public streets are proposed within this subdivision as both lots in the subdivision have direct frontage onto State Orchard Road. A 20-foot-wide access easement is proposed over the existing driveway on Lot 1 and is intended to provide shared access to proposed Lot 2.

E. All driveways and off-street parking areas within the proposed subdivision shall be hard-surfaced paved and designed in accordance with the standards stated in Section 15.23, *Off-Street Parking, Loading and Unloading*, of the Council Bluffs Municipal Code (Zoning Ordinance). The existing residential dwelling on Lot 1, Tweety's Landing has a gravel driveway that connects into State Orchard Road, which does not conform to current City hard-surface pavement standards. This driveway can remain in its current condition until such time development activity on the subject property requires the gravel driveway to be updated to current City standards, as stated in said Section 15.23 of the Council Bluffs Zoning Ordinance.

F. The proposed Tweety's Landing subdivision is located along a northerly section of State Orchard Road, which does not have sanitary sewer, but has water, electric, and gas utilities available. The purpose of the proposed R-1E zoning designation is to allow for septic systems and on-site water wells to be utilized in areas of the City in which access to utilities is not readily available. Both lots within the proposed subdivision will be connected to public water and will utilize on-site septic systems, as sanitary sewer is located more than 200 feet away from the existing residential dwelling on proposed Lot 1 and is not available at all to proposed Lot 2.

G. All utilities shall be installed underground. All costs to construct, remove and/or relocate any utilities for the proposed subdivision shall be the responsibility of the developer and not the City.

H. The following existing easements are recorded on the subject property and are shown on the proposed final plat:
   1. A 30-foot-wide storm sewer easement along the southwesterly/southerly portion of Lot 1, as recorded in Book 102, Page 44908.
   2. A 40-foot-wide sanitary sewer easement that bisects proposed Lot 1, as recorded in Book 106, Page 06391.

I. The proposed final plat also includes the dedication of a 33' x 659.04' (0.348 acres) tract of land to the City of Council Bluffs for State Orchard Road right-of-way.

J. The subject property is not located within a designated flood zone, as per FEMA FIRM Map Panel 19155C0581F, dated 4/16/2013.

K. The following technical correction shall be made to the final plat prior to it being executed by the City of Council Bluffs:

   1. The standard dedication of public easements shall appear on the final plat as stated below:
      A perpetual easement is reserved for storm drainage and the installation and maintenance of utilities 5 feet wide along each side of interior lot lines and 10 feet in width along all front and rear lot lines:

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.

CHANGE OF GRADE PROHIBITED: Grantor shall not change the grade, elevation or contour of any part of the Easement Area without obtaining the prior written consent of the City Engineer.

RIGHT OF ACCESS: City shall have the right of access to the Easement Area and have all right of ingress and egress reasonably necessary for the use and enjoyment of the Easement Area as herein described.

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 Grantor or their successors or assigns.

SURFACE RESTORATION: City's liability to restore the surface within the Easement Area shall be limited only to grading and seeding, and replacement of grantors surfaced roadway.

DUTY TO REPAIR: City agrees that any drain tile, drive or access way, fence, or 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 Grantor.

EASEMENT RUNS WITH LAND: This easement shall be deemed to run with the land and shall be binding on Grantor and on Grantor's successors and assigns.

CASE #ZC-25-002

The subject property is zoned A-2/Parks, Estates, and Agricultural District and is surrounded by the following zoning districts and existing land uses:

Direction	Existing Zoning Districts	Existing Land Uses
North	A-2/Parks, Estates, and Agricultural District and R-1E/Single-family Residential Estate District	Single-family residential dwellings and undeveloped land
South	A-2/Parks, Estates and Agricultural District and R-1/Single-family Residential District	Undeveloped land
East	R-1/Single-Family Residential District	Undeveloped land and single-family dwellings
West	A-2/Parks, Estates and Agricultural District and R-1/Single-family Residential District	Undeveloped land and single-family residential dwellings

A location/zoning map is included with this report as Attachment 'B.'

Public notices were mailed to all property owners within 200 feet of the subject property. No comments have been received as of the date of this report.

Discussion

A. The subject property is zoned A-2/Parks, Estates and Agricultural District and is proposed to be rezoned to R-1E/Single-Family Residential Estates District to allow for the proposed single-family residential estates development. The subject property is located along State Orchard Road, which does not have sanitary sewer, but has water, electric, and gas utilities available. The purpose of the proposed R-1E zoning designation is to allow for septic systems and on-site water wells to be utilized in areas of the City in which access to utilities is not readily available.
B. The applicants will retain ownership of proposed Lot 1 and intend to sell proposed Lot 2 to their son, so that he can build a new single-family residential dwelling on the property.
C. Both lots in Tweedy's Landing comply with minimum R-1E District lot size requirements and are capable of being developed. Proposed Lot 1 has potential to be further subdivided into multiple lots upon the extension of a roadway and/or infrastructure (i.e., sanitary sewer and water).
D. The future land use map of the Bluffs Tomorrow: 2030 Plan (Comprehensive Plan) designates the subject property as 'Low Density Residential.' Rezoning the subject property from A-2 District to R-1E District would support the goals of the Comprehensive Plan and would be an appropriate zoning designation based on the future land use map.

The rezoning and subdivision requests were routed to all City Departments and local utility providers. The following comments were received:

A. Council Bluffs Fire Department stated they have no comments regarding the requests.
B. Council Bluffs Police Department stated they have no comments regarding the requests.
C. Council Bluffs Public Works Department stated a septic system is allowed for the existing residential dwelling on proposed Lot 1 and for the new dwelling on proposed Lot 2, as sanitary sewer is located more than 200' from either residence.
D. Council Bluffs Water Works stated they have no comments for the requests.
E. MidAmerican Energy Company stated they have no conflicts with the requests and the property owners and/or their agents should contact them directly to identify electrical service costs and responsibilities associated with development of the site.

Recommendation

The Community Development Department recommends the following:

A. Final plat approval of a two-lot residential subdivision to be known as Tweety's Landing, legally described as Parcel 25028 being a portion of North 1/2 of the South 1/2 of the SW 1/4 of Section 34-75-43, City of Council Bluffs, Pottawattamie County, Iowa, subject to the comments above and the conditions below:
    1. The final plat shall be recorded within 90 days of City Council approval or the plat will become null and void unless and extension has been requested and granted by the Community Development Director.
    2. The final plat shall conform to all City standards and specifications, the zoning and subdivision ordinances, and the Department of Public Works standards for Public Improvements.
    3. All utilities shall be installed underground. Any costs to construct, remove, and/or relocate any utilities shall be the responsibility of the applicant and/or developer, not the City.
    4. All applicable permits necessary to meet local, state, and federal requirements shall be the applicants responsibility; and
    5. Granting a subdivision variance to allow proposed Lot 1, Tweedy's Landing to exceed the maximum 3:1 lot depth-to-width ratio, as stated in Section 14.14.020 *Lot Layout* of the Council Bluffs Subdivision Ordinance, based on reasons stated above.

B. Approval of the request to rezone property legally described as Parcel 25028 being a portion of North 1/2 of the South 1/2 of the SW 1/4 of Section 34-75-43, City of Council Bluffs, Pottawattamie County, Iowa, from A-2/Parks, Estates, and Agricultural District to R-1E/Single-Family Residential Estates District, subject to the comments stated above.

Public Hearing

Staff speakers for the request:
1. Christopher Gibbons, Planning & Code Compliance Manager, City of Council Bluffs, 209 Pearl Street, Council Bluffs IA, 51503

Speakers in favor:
1. Patrick Cunningham, 1305 State Orchard Road, Council Bluffs, IA 515103

Speakers against: None

The Community Development Department recommends the following:

A. Final plat approval of a two-lot residential subdivision to be known as Tweety's Landing, legally described as Parcel 25028 being a portion of North 1/2 of the South 1/2 of the SW 1/4 of Section 34-75-43, City of Council Bluffs, Pottawattamie County, Iowa, subject to the comments above and the conditions below:
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   2. The final plat shall conform to all City standards and specifications, the zoning and subdivision ordinances, and the Department of Public Works standards for Public Improvements.
   3. All utilities shall be installed underground. Any costs to construct, remove, and/or relocate any utilities shall be the responsibility of the applicant and/or developer, not the City.
   4. All applicable permits necessary to meet local, state, and federal requirements shall be the applicants responsibility; and
   5. Granting a subdivision variance to allow proposed Lot 1, Tweedy's Landing to exceed the maximum 3:1 lot depth-to-width ratio, as stated in Section 14.14.020 *Lot Layout* of the Council Bluffs Subdivision Ordinance, based on reasons stated above.

B. Approval to rezone property legally described as Parcel 25028 being a portion of North 1/2 of the South 1/2 of the SW 1/4 of Section 34-75-43, City of Council Bluffs, Pottawattamie County, Iowa, from A-2/Parks, Estates, and Agricultural District to R-1E/Single-Family Residential Estates District, subject to the comments stated above.

VOTE: AYE – Freund, Knauss, Rater, Rew, Stroebele, VanHouten, and Watson. NAY – None. ABSTAIN – None. ABSENT – Hutcheson. VACANT - Three Motion: Carried.

Attachments

Attachment A: Proposed Tweedy's Landing Final Plat
Attachment B: Location/zoning map

Prepared by: Christopher N. Gibbons, Planning Manager, Community Development Department