RESOLUTION NO. 21-346

A RESOLUTION GRANTING APPROVAL OF A SIX-LOT PRELIMINARY SUBDIVISION PLAN TO BE KNOWN AS MALL OF THE BLUFFS, REPLAT 1, LEGALLY DESCRIBED AS BEING A REPLAT OF LOTS 1, 3, 4, 5, AND 13, MALL OF THE BLUFFS, ALONG WITH PART OF LOTS 2 AND 4, AUDITOR'S SUBDIVISION OF THE SW1/4 SW1/4 OF SECTION 32-75-43; PART OF LOTS 2 AND 4, AUDITOR'S SUBDIVISION OF THE NW1/4 NW1/4 OF SECTION 5-74-43; PART OF LOTS 1 AND 6, AUDITOR'S SUBDIVISION OF THE NE1/4 NE1/4 OF SECTION 6-74-43; AND PART OF LOTS 3 AND 6, AUDITOR'S SUBDIVISION OF THE SE1/1 NE1/4 OF SECTION 6-74-43, ALL IN THE CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

WHEREAS, Menard, Inc., D S A G Investments, and Woodsonia MOTB, LLC have submitted a joint proposal for a six-lot preliminary subdivision plan for properties generally located 1751 Madison Avenue, Council Bluffs, Iowa, to be known as Mall of the Bluffs, Replat 1. A copy of the preliminary plan is attached hereto as Attachment 'C'; and

WHEREAS, The properties included in these requests are specific to all landholdings owned by Menard Inc., the existing Casey's convenience store/gas station owned by D S A G Investments, and the existing Hy-Vee store owned by Woodsonia MOTB, LLC. All other platted lots that are adjacent to the former Mall of the Bluffs site are excluded from the proposed preliminary subdivision request and will continue be regulated by the terms and conditions of the previously adopted development plan for Mall of the Bluffs; and

WHEREAS, The proposed Mall of the Bluffs, Replat 1 Subdivision will accomplish the following actions:

A. Dedicate two public roads (Menard Drive and Hy-Vee Drive) along with new public sewers (i.e., sanitary and storm sewers) to the City of Council Bluffs;

B. Establish a new street configuration that includes streetscapes, sidewalks, and a multi-purpose pedestrian trail that will connect into the City's existing trail and sidewalk systems;

C. Allow for the existing Hy-Vee store location to expand their parking lot area to the east;

D. Establish new northerly and easterly property lines for the Casey's convenience store/gas station (proposed Lot 3) so that their building and drive aisles are located on their property and not on any abutting lot and/or rights-of-way;

E. Create parcels of land for new retail/commercial development on the former Mall of the Bluffs site. Proposed Lots 3and 4 will be developed as pad sites, and proposed Lot 5 will be developed with a new Menard's retail store/lumber yard. Proposed Lot 6 will contain the existing multi-tenant buildings that are currently occupied by the United States Postal Service, Planet Fitness, and Mad Optical;

F. Release all public and private easements that are no longer needed to service development on the former Mall of the Bluffs site, and establish new easements in their place;
G. Create an area for on-site stormwater detention for the subdivision and other adjacent properties; and
H. Create a parcel (Outlot B) for the existing private road that provides access to businesses such as: KFC, McDonald's, U.S. Bank, AvailaBank, Snyder-Associates Inc., and the Council Bluffs School District Madison Campus building; and

WHEREAS, The following comments were provided for the proposed subdivision request:

A. Approval of the preliminary plan is tentative and does not constitute acceptance of the final plat, 'but is deemed to be an authorization to proceed with the preparation of the final construction plans or performance guarantee and the final plat' (§14.11.060.04-Subdivision Ordinance). A final plat application must be filed within one year of the date of action by the City Council. A request for extension may be made by the subdivider in writing prior to the expiration date. One year extensions are considered by the City Planning Commission.
B. All parcels included in Mall of the Bluffs, Replat 1 and all properties immediately adjacent to the former Mall of the Bluffs site are zoned PC/Planned Commercial (see Attachment A). The future land use plan of the Bluffs Tomorrow: 2030 Comprehensive Plan designates all said properties as Regional Commercial. The proposed preliminary subdivision plan is consistent with the PC District and the Bluffs Tomorrow: 2030 Plan.
C. All lots within the proposed subdivision are suitable in size and dimensions to allow for commercial and/or retail development to occur upon them, and will have direct frontage onto one or more public roadways: Menard Drive, Hy-Vee Drive, Madison Avenue, Bennett Avenue, and Mall Drive (see Attachment 'C').
D. Menard Drive and Hy-Vee Drive will be constructed by the developer (Menard, Inc.) to meet current City standards and will be dedicated to the City as part of the Mall of the Bluffs, Replat 1 final plat. Outlot B contains a section of the existing private road that provides access to properties that are either owned and/or operated by the following businesses: KFC, McDonald's, U.S. Bank, AvailaBank, Snyder and Associates, and the Council Bluffs School District. Access to the above stated properties from Outlot B shall remain in place under the existing private easement agreement(s), and ownership and maintenance of said outlot shall be stated on the Mall of the Bluffs, Replat 1 final plat.
E. Menard Drive and Hy-Vee Drive are designed to include landscape buffers and a planted median. The preliminary plan includes a note that

states *"all property owners shall be responsible for landscape maintenance in the rights-of-way adjacent to property. The owner of Lot 5, Mall of the Bluffs, Replat 1 shall be responsible for the maintenance of the center medians".*

A traffic study was submitted to the City, and the Public Works Department stated they will continue to work with the developer on all comments/recommendations stated in the report.

F. All lots within the subdivision will be served with utilities including: water, sanitary/storm sewer, communications, electricity, and natural gas (see Attachment 'C'). The developer has also proposed to vacate and release several existing utility easements (public and private), and establish new utility easements, in order to redevelop the former Mall of the Bluffs site in an orderly and efficient manner. Said easements are identified on Attachment 'D.' The developer shall be responsible for obtaining approval from all utility providers and any/or private entities for releasing said easements shown on Attachment 'D.' All public easements shown on Attachment 'D' that are identified to be vacated and released must be approved by City Council prior to execution of the final plat. Any cost to construct, extend, remove and/or relocate any utilities within or to this subdivision, as shown in Attachments 'C' and 'D,' shall be the sole responsibility of the developer, and not the City of Council Bluffs. The developer shall also ensure the final plat contains notations on the perpetual ownership and maintenance of said new easements.

G. There is an existing private sanitary sewer main that is protected by an easement along the frontages of Lots 6 through 12, Mall of the Bluffs that will remain in place and will be subject to the terms and conditions agreed upon between the developer and the existing property owners. The developer proposes to construct a new 8-inch sanitary main along the northerly portions of Lot 2, Mall of the Bluffs, and proposed Lots 4 and 5, Mall of the Bluffs, Replat 1, which then connect to the new public sewer main in Menard Drive. This new sewer main will be available for use by the owners of Lots 6 through 12, Mall of the Bluffs at the time their existing sanitary sewer is no longer needed. The developer shall be responsible for the construction of this sewer main, and information related to the perpetual use, maintenance, and ownership of said easement shall be noted on the final plat. The developer shall also be responsible for obtaining easement approvals from the owner of Lot 2, Mall of the Bluffs for the new sanitary sewer main that extends into their property, and documentation of said easement agreement shall be provided to the City of Council Bluffs prior to the Mall of the Bluffs, Replat 1 final plat being executed.

H. A 20-foot wide multi-purpose pedestrian trail will be constructed by the developer along the north side of Menard Drive and will connect into the

existing Valley View Trail and to the sidewalks along Madison Avenue. The proposed trail will be dedicated to the City of Council Bluffs and will become part of the City's broader public trail system. Additionally, a minimum four foot-wide sidewalk will be constructed along the north side of Hy-Vee Drive that will connect into the existing sidewalks along Madison Avenue. There is a small portion of this sidewalk that encroaches onto proposed Lot 1, Mall of the Bluffs that must be protected by an easement. The developer has negotiated an easement for said sidewalk encroachment with the owner of Lot 1, Mall of the Bluffs. A copy of the signed and recorded easement shall be provided to the City of Council Bluffs prior to dedication of Menard Drive and Hy-Vee Drive to the City of Council Bluffs.

I. Outlot A will be used for on-site stormwater detention for the proposed subdivision, and for other properties located in the existing Mall of the Bluffs Subdivision (see Attachment 'F'). Stormwater will be directed to Outlot A through the establishment of new drain inlets within Hy-Vee Drive and Menard Drive, and through existing easements on abutting properties. The developer shall continue to work with Council Bluffs Public Works Department on the design and function of this stormwater detention basin. Furthermore, a note shall also be placed on the final plat that gives clear guidance as to which lots in the Mall of the Bluffs and Mall of the Bluffs, Replat 1 Subdivisions have legal access to utilize Outlot A for stormwater detention, and said note shall also clearly state which lot owner and/or development association is responsible for the perpetual ownership and maintenance of Outlot A.

J. 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, and not the City.

K. Council Bluffs Water Works stated they have a main extension agreement in place with the developer for public water mains. Once the final design of the proposed water main is completed, they will be able to provide the permanent locations of water line routing and easement widths.

L. In accordance with Iowa Code Section 306.19(5), the Iowa Department of Transportation (IDOT) has completed a Corridor Preservation Plan for the interstate improvement project. As such, the City is required to submit all subdivision requests located within the Corridor to IDOT for review prior to approval. The approval submittal was to IDOT and they stated the proposed subdivision will not conflict with their Council Bluffs Interstate Program.

M. Proposed Lots 5 and 6, and Outlot A, are located within AE Flood Zone, as per FEMA FIRM panel 19155C0577E, dated 2/4/2005. The owner(s) of said lots shall be responsible for compliance with all federal, state, and local floodplain development requirements.

N. The following technical correction/comments must be addressed on the forthcoming Mall of the Bluffs, Replat 1 final plat:
   1. Remove Lot 14, Mall of the Bluffs from the subdivision's legal description as said lot does not exist on the recorded Mall of the Bluffs final plat;
   2. Notate the total number of acres in the subdivision on the final plat; and
   3. Specify on the plat if any private restrictions and/or covenants will be recorded with the subdivision. If none, state that no private restrictions and/or covenants will be recorded with the subdivision on the plat; and

WHEREAS, The Community Development Department recommends approval of the preliminary plan for Mall of the Bluffs, Replat 1, subject to the comments above, and shall be in conformance with all City standards and specifications, the Zoning and Subdivision Ordinances, and the Department of Public Works Standards for Public Improvements.

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

That preliminary plan approval of a six-lot preliminary subdivision plan to be known as Mall of the Bluffs, Replat 1, legally described as being a replat of Lots 1, 3, 4, 5, and 13, Mall of the Bluffs, along with part of Lots 2 and 4, Auditor's Subdivision of the SW1/4 SW1/4 of Section 32-75-43; part of Lots 2 and 4, Auditor's Subdivision of the NW1/4 NW1/4 of Section 5-74-43; part of Lots 1 and 6, Auditor's Subdivision of the NE1/4 NE1/4 of Section 6-74-43; and part of Lots 3 and 6, Auditor's Subdivision of the SE1/1 NE1/4 of Section 6-74-43, all in the City of Council Bluffs, Pottawattamie County, Iowa, is hereby approved.

ADOPTED
AND November 22, 2021.
APPROVED

_____
MATTHEW J. WALSH Mayor

Attest: _____
JODI QUAKENBUSH City Clerk