RESOLUTION NO. 22-41

A RESOLUTION GRANTING FINAL PLAT APPROVAL FOR A SIX-LOT COMMERCIAL SUBDIVISION 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, TOGETHER WITH A TRACT OF LAND LOCATED IN PART OF LOTS 2 AND 4, AUDITOR'S SUBDIVISION OF THE SW1/4 SW1/4 OF SECTION 32-75-43, AND PART OF LOTS 2 AND 4, AUDITOR'S SUBDIVISION OF THE NW1/4 NW1/4 OF SECTION 5-74-43, AND PART OF LOTS 1, 3, AND 6, AUDITOR'S SUBDIVISION OF THE NE1/4 NE1/4 OF SECTION 6-74-43, AND PART OF LOTS 1, 3, AND 6, AUDITOR'S SUBDIVISION OF THE SE1/4 NE1/4 OF SECTION 6-74-43, ALL IN THE CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA AND BEING MORE PARTICULARLY DESCRIBED IN THE CASE FILE LOCATED IN THE COMMUNITY DEVELOPMENT DEPARTMENT.

WHEREAS, Menard, Inc., Woodsonia MOTB, LLC, and DSAG Investments has requested review and approval of a final commercial subdivision plat for a six lot commercial subdivision to be known as the Mall of the Bluffs, Replat 1. The preliminary subdivision plan for Mall of the Bluffs, Replat 1 was approved by City Council on November 22, 2021 via Resolution No. 21-346. Additionally, City Council approved planned commercial development plans for all lots located within said subdivision via Resolution No. 21-347, dated November 22, 2021, and Resolution No. 22-15, dated January 10, 2022 (Cases PC-21-001 and PC-21-004)., Pottawattamie County, Iowa, being more particularly described as follows:

Lots 1, 3, 4, 5, and 13 Mall of the Bluffs, together with a tract of land located in part of Lots 2 and 4, Auditor's Subdivision of the SW1/4 SW1/4 of Section 32-75-43, and part of Lots 2 and 4, Auditor's Subdivision of the NW1/4 NW1/4 of Section 5-74-43, and part of Lots 1, 3, and 6, Auditor's Subdivision of the NE1/4 NE1/4 of Section 6-74-43, and part of Lots 1, 3, and 6, Auditor's Subdivision of the SE1/4 NE1/4 of Section 6-74-43, all in the City of Council Bluffs, Pottawattamie County, Iowa; and

WHEREAS, All City departments and local utility companies were provided a copy of the proposed Mall of the Bluffs, Replat 1 final plat for review. The following comments were received:

A. The proposed Mall of the Bluffs, Replat 1 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. All development activity within the Mall of the Bluffs, Replat 1 shall comply with the adopted PC/Planned Commercial development plans that were approved by City Council via Resolution No. 21-347 (Case #PC-21-001) and Resolution No. 22-15 (Case #PC-21-004).
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.
D. Public water, sanitary sewer and storm sewer utilities are available to service all lots in the subdivision. Any cost to construct, extend, remove and/or relocate any

utilities within or to this subdivision shall be the sole responsibility of the applicant, and not the City of Council Bluffs.

E. The final plat includes dedication of two new public streets (Menard Drive and Hy-Vee Drive), sidewalks, and a multi-purpose trail to the City of Council Bluffs. The applicant, Menard Inc. has submitted preliminary construction drawings for said streets and trail to the Council Bluffs Public Work Department for review. Public Works has requested the applicant provide the City with an opinion of probable cost along with a bond that covers the full cost of constructing said public improvements prior to the final plat being executed by the City. Furthermore, a copy of the permanent sidewalk easement on Lot 1, Mall of the Bluffs, Replat 1, as shown on Sheet 1 of 9, shall be provided to the City of Council Bluffs and shall be recorded with the final plat.

F. Menard Drive and Hy-Vee Drive are designed to include landscaping (e.g., street trees) within their respective rights-of-way. Note #10 on Sheet 1 of 9 summarizes that maintenance of all landscape plantings within Menard Drive and Hy-Vee Drive rights-of-way shall be the responsibility of the abutting property owner(s). This same note shall be revised to also state that Menard Inc., will be responsible for the maintenance of the center landscape islands within Menard Drive. All tree species within the subject Menard Drive and Hy-Vee Drive shall comply with City's Master Street Tree planting list prior to installation.

G. Sheet 3 of 9, Mall of the Bluffs, Replat 1 identifies recorded easements that shall continue remain on properties located within this subdivision. There is also a note on this sheet that references maintenance of Outlot B shall be subject to the REA Amendment recorded in Book 2019 Page 14437 of the Pottawattamie County Recorder's Office. This same note shall be included in the "Dedication" statement on Sheet 2 of 9.

H. Sheet 4 of 9, Mall of the Bluffs, Replat 1 identifies existing public stormwater drainage easements that are proposed to be released with the recording of said final plat. All infrastructure associated with these stormwater easements were removed by the applicant as part of the demolition work for the former Mall of the Bluffs and are no longer needed within the development area. Council Bluffs Public Works Department did not provide any comments in opposition to releasing said easements.

I. Sheet 5 of 9, Mall of the Bluffs, Replat 1 identifies two existing sanitary sewer easements that are proposed to be released with the recording of said final plat. All infrastructure associated with these sanitary sewer easements were removed by the applicant as part of the demolition work for the former Mall of the Bluffs, or are planned to be removed with the reconstruction of Menard Drive, and are no longer needed within the development area. Council Bluffs Public Works Department did not provide any comments in opposition to releasing said easements. Additionally, all sign easements shown on Sheet 5 of 9 will remain in place and all signage will be regulated by the aforementioned development plans above (Resolution No. 21-347 and Resolution No. 22-15).

J. Sheet 6 of 9, Mall of the Bluffs, Replat 1 identifies all existing Council Bluffs Water Works easements. These easement will remain in place as part of the recording of said final plat. Any future requests to release and/or relocate said easements shall be coordinated between the applicant and the Council Bluffs Water Works. All costs to construct, remove and/or relocate any of these utilities in this subdivision shall be the responsibility of the applicant, and not the City. Council Bluffs Water Works stated they have no comments about the plat at this time.

K. Sheet 7 of 9, Mall of the Bluffs, Replat 1 identifies existing gas line and communication easements within said subdivision. The gas line easement extending through Outlot B and Lot 4, Mall of the Bluffs, Replat 1 has been released by Black Hills Energy, as per the "Release of Easement" document recorded in Book 2021 Page 20626 of the Pottawattamie County Recorder's Office. The applicant shall add a note to Sheet 7 of 9 that specifies the recorded book/page number for said easement release. All existing communication easements shown on Sheet 7 of 9 will remain in place as part of the recording of said final plat. Any future requests to release and/or relocate said easements shall be coordinated between the applicant and the local telecommunication provider(s). All costs to construct, remove and/or relocate any of these utilities in this subdivision shall be the responsibility of the applicant, and not the City.

L. Sheet 8 of 9, Mall of the Bluffs, Replat 1 identifies existing electrical utility easements within said subdivision. The existing electrical easement extends through portions of Lots 1, 3, 4, 5, and 6, Mall of the Bluffs, Replat 1. The applicant, Menard Inc., has had conversation with MidAmerican Energy about relocating their existing electrical line(s) and then releasing the associated utility easement thereafter. The existing easement are proposed to remain on the Mall of the Bluffs, Replat 1 final plat until such time Menard Inc. and MidAmerican Energy agree to them being released. Any future requests to release and/or relocate said easements shall be coordinated between the applicant and MidAmerican Energy. All costs to construct, remove and/or relocate any of these utilities in this subdivision shall be the responsibility of the applicant, and not the City.

M. Sheet 9 of 9, Mall of the Bluffs, Replat 1 identifies existing power and communication easements that will remain in place with the recording of said final plat. Any future requests to release and/or relocate said easements shall be coordinated between the applicant and MidAmerican Energy. All costs to construct, remove and/or relocate any of these utilities in this subdivision shall be the responsibility of the applicant, and not the City.

N. Outlot A will be used for stormwater purposes. The final plat includes a note stating the owner of Lot 5, Mall of the Bluffs, Replat 1 shall be responsible for the maintenance and piping associated with detention basin on Outlot A. This same note shall be included in the "Dedication" statement on Sheet 2 of 9.

O. 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, Availa Bank, 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.

P. All electric, cable and communication facilities shall be installed underground. All costs to construct, remove and/or relocate any utilities in this subdivision shall be the responsibility of the applicant, and not the City.

Q. Sidewalk installation shall occur in accordance with the adopted planned commercial development plan (Cases #PC-21-001 and #PC-21-004) prior to the issuance of a Certificate of Occupancy. All sidewalks shall be built to City standards. All costs associated with the installation of sidewalks shall be the responsibility of the applicant, and not the City.

R. In accordance with Iowa Code Section 306.19(5), the Iowa Department of Transportation (IDOT) has completed a Corridor Preservation Plan for Interstates 29/80 improvement projects. As such, the City is required to submit all subdivision requests located within the Corridor to IDOT for review prior to approval. The Community Development Department provided IDOT a copy of the proposed Mall of the Bluffs, Replat 1 final plat to review. IDOT stated the proposed plat will not conflict with their Council Bluffs Interstate System (CBIS) project.

S. The proposed multi-purpose trail shall be installed and dedicated to the City as part of the construction of Menard Drive. Additionally, the sidewalk along the north side of HyVee Drive shall be installed as part of said street construction.

T. The following technical corrections shall be made to the Mall of the Bluffs, Replat 1 final plat prior to it being executed by the City and recorded with the Pottawattamie County Recorder's Office:

1. Sheet 1 of 9 – Remove comment #6 as Lot 1 does not abut Bennett Avenue, Mall Drive, or Interstate 80 rights-of-way.
2. Sheet 1 of 9 – Revise comment #7 to allow Lot 6 direct vehicular access to Bennett Avenue and Mall Drive, as said lot has a driveway both roadways.
3. Sheet 1 of 9 – Revise comment #8 as some easements will remain in place until such time Menards Inc., relocates certain utilities and releases the corresponding easement with their respective utility provider.
4. Sheet 2 of 9 – The dedication language must be revised to include language for the ownership and maintenance of Outlots A & B; dedicating Menards Drive and Hy-Vee Drive to the City of Council Bluffs; language that dedicates the 5-foot- and 10-foot utility easement along all side, front, and rear property lines to the City of Council Bluffs and to local utility franchises.

5. Sheet 9 of 9 – Remove the "shadow easement" on Lot 5 since there is no reference to the purpose of this easement on the plat sheet.
6. Identify the new sanitary sewer easement that runs along the westerly portion of Lots 4 and 5, Mall of the Bluffs Replat 1, and abutting Outlot B, on the final plat.
7. Remove the hyphen in "Hy-Vee Drive" on all plat sheets for addressing and E911 purposes.

WHEREAS, The Community Development Department recommends approval of the final plat for Mall of the Bluffs Replat 1 as shown on Attachment B, subject to all comments stated above, and the following conditions:

A. The final plat shall be recorded within 90 days of City Council approval or the plat will become null and void unless an extension has been requested and granted by the Community Development Department Director.
B. All technical corrections required by the Community Development Department and/or Public Works Department including the modifications discussed above shall be made on the final plat prior to execution of the document.
C. Conform to all City standards and specifications, and the zoning and subdivision ordinances and the Department of Public Works Standards for Public Improvements.
D. All public stormwater and sanitary sewer easements identified on Sheet 4 of 9, and Sheet 5 of 9 shall be released by the City of Council Bluffs upon the Mall of Bluffs, Replat 1 final plat being executed and recorded.

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

That the final plat approval for six-lot commercial subdivision to be known as the Mall of the Bluffs, Replat 1, as legally described above, is hereby approved subject to all local, state and federal regulations; and

BE IT FURTHER RESOLVED

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

Planning Case No. #SUB-22-002

ADOPTED
AND February 14, 2022.
APPROVED

_____
MATTHEW J. WALSH Mayor

Attest: _____
JODI QUAKENBUSH City Clerk