RESOLUTION NO. 22-199

A RESOLUTION GRANTING FINAL PLAT APPROVAL OF A FOUR-LOT SUBDIVISION TO BE KNOWN AS BLACK SQUIRREL FLATS SUBDIVISION, LEGALLY DESCRIBED AS BEING A REPLAT OF PART OF BROWN'S SUBDIVISION, BLOCK 19, LOTS 16 THROUGH 30, INCLUSIVE, AND BLOCK 18, LOTS 1 THROUGH 15, INCLUSIVE, AND BLOCK 9, LOTS 1 THROUGH 3, INCLUSIVE, ALSO VACATED 12TH AVENUE FROM SOUTH 34TH STREET TO SOUTH 35TH STREET, ALSO VACATED SOUTH 34TH STREET ADJOINING BLOCKS 9 AND 18, ALSO VACATED RAILROAD AVENUE EAST OF 35TH STREET, ABUTTING BLOCKS 9, 10, 17, 18 AND SAID VACATED SOUTH 34TH STREET, ALL IN BROWN'S SUBDIVISION, A SUBDIVISION OF THE SOUTHEAST QUARTER OF SECTION 33, TOWNSHIP 75 NORTH, RANGE 44 WEST OF THE PRINCIPAL MERIDIAN, POTTAWATTAMIE COUNTY, COUNCIL BLUFFS, IOWA.

WHEREAS, Scott Porter is requesting final plat approval on property located at 1115 S. 35th Street, 1207 S. 35th Street, 3401 12th Avenue, and the undeveloped property located at the northwest corner of S. 34th Street and 12th Avenue; and

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

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 split-zoned C-2/Commercial District and R-3/Low Density Multifamily Residential District, as the subdivision consists of existing commercial and multifamily residential uses. Proposed Lot 1 (56,723 square feet) and proposed Lot 2 (81,415 square feet) exceed the R-3 District minimum lot size requirements set forth in Section 15.10.050, *Site Development Regulations*, of the Council Bluffs Municipal Code (Zoning Ordinance). Proposed Lot 3 (93,767 square feet) and Lot 4 (49,628 square feet) exceed the C-2 District minimum lot size requirement set forth in Section 15.15.050, *Site Development Regulations*, of the Council Bluffs Municipal Code (Zoning Ordinance).

C. All lots in the proposed subdivision have direct frontage onto a public roadway (South 34th Street, South 35th Street, and 12th Avenue).

D. The applicant intends to construct a residential development on proposed Lot 1. All future development activity on proposed Lot 1 shall comply with R-3/Low Density Multifamily District standards.

E. Proposed Lots 2, 3, and 4 are currently developed and serviced with adequate utilities. Public water, sanitary sewer, and storm sewer utilities are available to service proposed Lot 1. Any cost to construct, extend, remove, and/or relocate any utilities within or to this subdivision shall be the sole responsibility of the developer, not the City of Council Bluffs.

F. On January 24, 2022, the Council Bluffs City Council approved Resolution No. 22-22 to vacate and dispose of 12th Avenue right-of-way between South 34th and South 35th Streets and abutting property legally described as Lots 16 through 30, Block 19, Brown's Subdivision and Lots 1 through 15, Block 18, Brown's Subdivision, City of Council Bluffs, Pottawattamie County, Iowa. A utility easement was kept over said right-of-way for utility access and maintenance purposes.

The applicant has requested to release said easement (Case #MIS-22-004) except for the portion abutting Lots 1 through 3 and the easterly 28 feet of Lot 4 along with Lots 9 through 15 all in Block 18, Brown's Subdivision and the westerly ten feet abutting Lot 16, Block 19, Brown's Subdivision, City of Council Bluffs, Pottawattamie County, Iowa as several utility providers have stated that they have infrastructure located within the vacated right-of-way. The resolution of intent for this request was approved by City Council at the July 25th City Council meeting. The resolution to dispose for this request is being considered concurrently with the Black Squirrels Final Plat at the August 8, 2022 City Council meeting. Said release of easements request shall not be effective until the final plat has been executed.

G. All electric, cable, and communication facilities shall be installed underground. All costs to construct, extend, remove, and/or relocate any utilities within or to this subdivision shall be the sole responsibility of the developer, not the City of Council Bluffs.

H. The following technical corrections shall be made to the final plat:

1. The proprietor's dedication statements for Shadow Park Cooperative and Amy Vance Properties, LLC should state "ON THIS _____DAY OF _____, 2022 **BEFORE** ME…"
2. 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.

I. The Council Bluffs Public Works Department provided the following comments:
   1. The Public Works Department maintained a 75-foot easement along the eastern portion of the vacated 12th Avenue right-of-way to provide access to existing storm sewer infrastructure. The applicant has coordinated with the Council Bluffs Public Works Department to relocate the storm sewer inlets along 12th Avenue. All work has been completed to the Public Works Department's standards and said easement is no longer needed.
   2. The standard dedication of public easements shall appear on the final plat.

WHEREAS, The Community Development Department recommends final plat approval of a four-lot subdivision to be known as Black Squirrel Flats Subdivision, legally described as being a replat of part of Brown's Subdivision, Block 19, Lots 16 through 30, inclusive, and Block 18, Lots 1 through 15, inclusive, and Block 9, Lots 1 through 3, inclusive, also vacated 12th Avenue from South 34th Street to South 35th Street, also vacated South 34th Street adjoining Blocks 9 and 18, also vacated Railroad Avenue east of 35th Street, abutting Blocks 9, 10, 17, 18 and said vacated South 34th Street, all in Brown's Subdivision, a subdivision of the southeast quarter of Section 33, Township 75 North, Range 44 West of the Principal Meridian, Pottawattamie County, Council Bluffs, Iowa, subject to all comments stated above

and 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. 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; and

C. All technical corrections discussed in the staff report shall be incorporated in the final plat prior to being executed by the City.

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

That the final plat approval for a four-lot subdivision to be known as Black Squirrel Flats Subdivision, legally described above, is hereby approved subject to all comments and conditions listed above and 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.

ADOPTED
AND August 8, 2022.
APPROVED

_____
MATTHEW J. WALSH Mayor

Attest: _____
JODI QUAKENBUSH City Clerk