RESOLUTION NO. 22-274

A RESOLUTION GRANTING FINAL PLAT APPROVAL OF A THREE-LOT RESIDENTIAL MINOR SUBDIVISION TO BE KNOWN AS THE ROW ON 1ST SUBDIVISION, LEGALLY DESCRIBED AS BEING A REPLAT OF LOT 12, BLOCK 5, COCHRAN'S ADDITION, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA, AND APPROVAL OF THE REQUESTED VARIANCE FOR LOT-SIZE.

WHEREAS, Pottawattamie County Development Corporation d/b/a The 712 Initiative has requested final plat approval of a of a three-lot residential minor subdivision to be known as The Row on 1st Subdivision, legally described as being a replat of Lot 12, Block 5, Cochran's Addition, City of Council Bluffs, Pottawattamie County, Iowa; and

WHEREAS, The proposed subdivision is comprised of 0.14 acres (more/less) of land located immediately north of 105 S. 24th Street; 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 zoned R-3/Low Density Multifamily Residential and has a PR-2 Overlay appended to it. The future land use plan of the Bluffs Tomorrow: 2030 Plan (Comprehensive Plan) designates the subject property as Medium-Density Residential, which is described as areas that include *"duplexes and townhouses, though small-lot detached single-family or limited multi-family development may be present in these areas."* The applicant intends to utilize the proposed lots for a three-unit townhome development. The proposed subdivision is consistent with the Bluffs Tomorrow: 2030 Plan (Comprehensive Plan), as well as the purpose and intent of Title 14: Subdivisions and Title 15: Zoning of the Council Bluffs Municipal Code.

B. The minimum lot size for a townhouse dwelling in the R-3 District is *"7,500 square feet except when a townhouse dwelling unit is divided by a lot line coinciding with the common wall separating the units, the minimum lot area shall be 2,500 square feet.*" The two common walls separating the townhome units coincide with the lot lines. However, all three proposed lots do not meet the minimum 2,500 square foot lot size requirement (Lot 1 – 2,199 square feet; Lot 2 – 1,492 square feet; Lot 3 – 2,209 square feet).

Section 14.14.040, *Variances,* of the Council Bluffs Municipal Code (Subdivision Ordinance) states: *"where it can be shown that due to special conditions, a literal enforcement of this ordinance shall result in unnecessary hardship, the City shall have 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; and*
5. *Be consistent with the City's comprehensive plan."*

The Community Development Department recommends approval of the requested subdivision variances for lot sizes. The subject property is adjacent to the First Avenue trail, which is the City's premier multi-use trail, conducive to walking, biking, and micro-mobility options. The proposed lot sizes allows for small-scale, compact, and pedestrian-oriented development that promotes vibrancy along the First Avenue corridor and helps create the density necessary to support a successful future streetcar system as well as other potential expansions of public transportation within the city. Additionally, the proposed lot size variances would not be detrimental to the future residents in and near the proposed subdivision. The proposed subdivision is in line with the housing typologies identified in the Medium Density Residential designation of the Bluffs Tomorrow 2030 Comprehensive Plan.

C. All development within the proposed subdivision shall comply with the development standards listed in the adopted development plan for the subject property (Case #PR-22-004).

D. All proposed lots will have non-vehicular access to the First Avenue multi-use trail. Proposed Lot 1 will have vehicular access off South 24th Street and proposed Lot 3 will have vehicular access off the adjacent north/south alley.

E. All proposed lots will be serviced with utilities (e.g. sanitary/storm sewers, water, electricity, etc.) that shall be installed underground.

F. The subject property is located within Flood Zone 'X', according to the FEMA Map Number 19155C0394E, dated February 4, 2005 and is protected from flooding by a levee along the Missouri River.

G. The final plat shall be recorded concurrently with the issuance of the building permit for the proposed townhomes as the proposed subdivision is specific to the proposed townhome development.

H. Council Bluffs WaterWorks stated they have discussed the requirements for independently metering the units from the existing water main with the developer's engineer.

I. MidAmerican Energy stated they have no conflicts with the subdivision request and noted that the developer or their agents should contact MidAmerican Energy directly to discuss the project timeline and identify costs and responsibilities for extending electric service to the development.

J. The following technical corrections shall be made to the final plat prior to being executed by the City of Council Bluffs:
   1. The Certificate of Treasurer of Pottawattamie County, Iowa shall state: *"…the property included in* ***The Row on 1st Subdivision****…"*

2. Both notary statements shall state 2022 on the date line.
3. If the private covenants for the proposed subdivision are recorded prior to execution of the final plat, the final plat shall reference the book and page number of said recording. If the private covenants are not recorded prior to the execution of the final plat, said covenants shall be recorded concurrent with the final plat.
4. For the purpose of establishing franchise utility easements, the northerly and southerly property lines shall be considered interior side yard property lines. The westerly property line shall be considered the front property line, and the easterly property line shall be considered the rear property line. The standard franchise utility easements over the common property lines between Lots 1 and 2 and Lots 2 and 3 shall not be stated on the final plat as the townhome structures will be constructed over these property lines. The standard dedication of public easements shall appear on the final plat as stated below:
    a. *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:*
    b. *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.*
    c. *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.*
    d. *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.*
    e. *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.*
    f. *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.*
    g. *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.

h. *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; and*

WHEREAS, The Community Development Department recommends approval of the proposed three-lot residential minor subdivision to be known as The Row on 1st Subdivision, legally described as being a replat of Lot 12, Block 5, Cochran's Addition, City of Council Bluffs, Pottawattamie County, Iowa, and approval of the requested variance for lot-size, subject to the comments above and the conditions below:

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. Conform to all City standards and specifications, the zoning and subdivision ordinances and the Department of Public Works Standards for Public Improvements.

C. All comments and technical corrections stated in case staff report shall be addressed on the final plat prior to execution of the document.

D. 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.

E. All development within the proposed subdivision shall comply with the development standards listed in the adopted development plan for the subject property (Case #PR-22-004).

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

That the request for final plat approval for a three-lot residential minor subdivision to be known as The Row on 1st Subdivision, legally described as being a replat of Lot 12, Block 5, Cochran's Addition, City of Council Bluffs, Pottawattamie County, Iowa, as shown on Attachment "B", 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 November 14, 2022.
APPROVED

_____
MATTHEW J. WALSH Mayor

Attest: _____
JODI QUAKENBUSH City Clerk