RESOLUTION NO. 23-99

A RESOLUTION GRANTING FINAL PLAT APPROVAL OF A THREE-LOT MINOR RESIDENTIAL SUBDIVISION TO BE KNOWN AS TURLEY'S ADDITION REPLAT 1, ON LAND LEGALLY DESCRIBED AS BEING A REPLAT OF LOTS 1 THROUGH 5, AND THE NORTH HALF OF THE VACATED ALLEY ADJOINING LOTS 1, 3, 4, AND 5 ON THE SOUTH, BLOCK 7, AND LOTS 2 AND 3, BLOCK 8, AND THAT PART OF VACATED AVENUE M, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

WHEREAS, Richard Mowery is requesting final plat approval on land legally described above and generally located at 813 and 829 Avenue M and 1404 N. 8th 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 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 zoned R-2/Two-Family Residential District and consists of existing single-family residential uses. Proposed Lot 1 (16,418 square feet), proposed Lot 2 (18,699 square feet), and proposed Lot 3 (18,285 square feet) exceed the R-2 District minimum lot size requirements set forth in Section 15.09.050, *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. Proposed Lot 1 has frontage on N. 10th Street. Proposed Lot 2 has frontage on N. 8th Street. Proposed Lot 3 has frontage on both N. 8th and N. 10th Streets.

D. The purpose of the vacation of Avenue M was to allow the applicant to acquire additional land area adjoining his property (829 Avenue M) to construct an accessory structure north of the existing principal structure. The included properties will be affected by the vacation/subdivision in the following ways:

1. <u>Proposed Lot 1 (829 Avenue M)</u>
    a. Upon approval of the subject request, the property's status will change from a corner lot to an interior lot. As a result, the property line along North 10th Street will be considered the front lot line and would allow the applicant to construct the desired accessory structure north of the existing house in the side yard area.
    b. Two of the three nonconforming accessory structures north of the existing detached single-family dwelling will become conforming as they now would be located in the side yard and not the front yard. The northwesterly most shed will remain nonconforming as it will still be located closer to the front property line than the dwelling.

c. All land west of the existing detached single-family dwelling will now be considered the front yard. Therefore, the applicant will not be able to construct any accessory structures in this location as accessory structures cannot be set closer to the front property line than the principal structure, thus losing almost 50% of the buildable lot area.

2. Proposed Lot 2 (813 Avenue M)
   a. Upon approval of the subject request, the property's status will change from a corner lot to an interior lot. Therefore, the property line along N. 8th Street will be considered the front lot line. Therefore, all land area east of the detached single-family dwelling will now be considered the front yard and no accessory structures can be constructed within this area.
   b. Currently, the property line along Avenue M is considered the front lot line. The dwelling is considered nonconforming as it is located 22 feet from the front property line as opposed to the minimum 25 feet required. Once the property is subdivided, the property line along Avenue M will become the side yard lot line, which only requires a five (5) foot setback, thus, bringing the structure into conformance with the Zoning Ordinance.
3. Proposed Lot 3 (1404 North 8th Street)
   a. The property line along Avenue M is considered the street side yard, which has a minimum 15-foot setback. The dwelling at 1404 North 8th Street is located approximately seven (7) feet from this property line. The subject request would cause the southerly property line to become an interior side yard lot line, which only requires a five (5) foot setback, thus bringing the dwelling into compliance with the side yard setback.

   All future structures within the proposed subdivision shall conform to R-2 District site development standards.

E. All proposed lots are currently developed and serviced with adequate utilities. 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 27, 2020, the Council Bluffs City Council approved Resolution No. 20-18 to vacate and dispose of Avenue M right-of-way between North 8th and North 10th Streets and abutting property legally described as Lots 2 and 3, Block 8, Turley's Addition and Lots 2 through 5, Block 7, Turley's Addition, along with the vacated alley adjacent, City of Council Bluffs, Pottawattamie County, Iowa. Approval of said vacation was subject to the following conditions:

1. *An easement shall be retained over the subject right-of-way for utility access and maintenance purposes;*
2. *All portions of the subject right-of-way shall be disposed of to an abutting property owner(s); and*
3. *A final plat shall be executed prior to the disposal of the South ½ of the subject right-of-way to the applicant, owner of property addressed as 829 Avenue M and legally described as Lots 4 and 5 and the North ½ of the vacated east/west alley adjoining, all in Block 7, Turley's Addition, and to the owner of property addressed as 813 Avenue M and legally described as Lots 1 through 3 and the North ½ of the vacated east/west alley adjoining, all in Block 7, Turley's Addition, to create new platted lots with access to a publically dedicated right-of-way.*

G. The vacated portion of Avenue M is currently utilized for access purposes. The abutting property owners shall execute a shared access easement that allows the current property owners and any future successors to be able to continue to utilize vacated Avenue M for access.

H. As per the approved vacation request (Resolution No. 20-18), all property owners abutting the vacated portion of Avenue M shall purchase their respective portions of right-of-way. Purchase of the vacated right-of-way shall occur concurrently with the recording of the final plat in accordance with the following amounts:
1. Richard L. Mowery Jr. shall purchase the portion of right-of-way adjacent to his property for the sum of $479.08.
2. Randall Mowery shall purchase the portion of right-of-way adjacent to his property for the sum of $402.92.
3. Clinton M. Mowery shall purchase the portion of right-of-way adjacent to his property for the sum of $796.97.

I. 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.

J. The following technical corrections shall be made to the final plat:
1. The last 'Standard Utility Easements' statement includes the following language: "*…and shall be binding on **Margarito-Celedonia Moreno**…"* This shall be revised to state "*…and shall be binding on **Clinton M. Mowery, Richard Leroy Mowery, Jr. and Randall Mowery**…"*
2. The final plat shall identify the utility access and maintenance easement over the vacated Avenue M right-of-way and reference Resolution No. 20-18, which approved the Avenue M right-of-way vacation, contingent upon said easement.
3. The final plat shall identify the access easement over the vacated Avenue M right-of-way.

K. The Council Bluffs Public Works Department stated that they have infrastructure in the subject right-of-way and recommend retaining an easement over the entire right-of-way for future maintenance needs.

L. Lumen stated they have aerial and underground facilities within the public right-of-way on the west side of North 8th Street (not within the vacated Avenue M right-of-way) and noted they do not have any concerns with the proposed request.

M. MidAmerican Energy stated they have no conflict with the subdivision request and noted that the applicant or their representative should contact MidAmerican Energy directly to identify any costs associated with relocating or extending additional electric service to the proposed subdivision; and

WHEREAS, The Community Development Department recommends final plat approval of a three-lot subdivision to be known as Turley's Addition Replat 1, legally described as being a replat of Lots 1 through 5, and the north half of the vacated alley adjoining Lots 1, 3, 4, and 5 on the south, Block 7, and Lots 2 and 3, Block 8, and that part of vacated Avenue M, City of Council Bluffs, Pottawattamie County, 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. Purchase of the vacated Avenue M right-of-way shall occur concurrently with the recording of the final plat;

C. 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

D. 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 request for final plat approval for a three-lot minor residential subdivision to be known as Turley's Addition Replat 1, as 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 April 10, 2023.
APPROVED

_____
MATTHEW J. WALSH Mayor

Attest: _____
JODI QUAKENBUSH City Clerk