

**RESOLUTION NO. 23-116**

**A RESOLUTION GRANTING FINAL PLAT APPROVAL OF A 17-LOT SUBDIVISION TO BE KNOWN AS WEST BROADWAY VILLAGE, LEGALLY DESCRIBED AS BEING A REPLAT OF BLOCK 12, BRYANT AND CLARK’S ADDITION, ALONG WITH THE VACATED EAST/WEST ALLEY ADJACENT, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.**

**WHEREAS,** EB-WLG Affordable Limited Partnership is requesting final plat approval of a 17-lot subdivision to be known as West Broadway Village, legally described as being a replat of Block 12, Bryant and Clark’s Addition, along with the vacated east/west alley adjacent, City of Council Bluffs, Pottawattamie County, Iowa; and

**WHEREAS,** The proposed subdivision is comprised of 2.54 acres of land that is geographically bounded by 1<sup>st</sup> Avenue to the north, South 28<sup>th</sup> Street to the east, South 29<sup>th</sup> Street to the west, and 2<sup>nd</sup> Avenue to the south; 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 subject property is zoned R-4/High Density Multi-Family Residential District and contains a total of 2.54 acres of land. The proposed subdivision is generally consistent with the Bluffs Tomorrow: 2030 Plan and the purpose and intent of the Council Bluffs Municipal Code (Subdivision and Zoning Ordinances).
- B. The purpose of this final plat is to establish new lots of record for a proposed 84-unit apartment building on Lot 1, West Broadway Village, and 16 new townhomes on Lots 2-17, West Broadway Village. All construction activity and site development on said lots shall comply with the adopted PR/Planned Residential Development Plan (Cases PR-16-003(M) and PR-16-003(M2) and any future amendments to said plans.
- C. The applicant’s letter of intent states the subdivision will be developed in three phases. Phase 1 consists of 12 townhomes on Lots 2 – 14 with construction anticipated to start in June 2023. Phase 2 consists of an 84-unit apartment building on Lot 1 with an undetermined start date. Phase 3 consists of four townhomes on Lots 14-17 with an undetermined start date.
- D. Proposed Lot 1, West Broadway Village contains 85,769 square feet of land area, which allows for a maximum of 107 apartment units, based on minimum lot size requirements stated in Section 15.11.050, *Site Development Regulations*, of the R-4/High Density Residential District of the Council Bluffs Municipal Code (Zoning Ordinance).
- E. Proposed Lots 2 through 17, West Broadway Village will be developed into townhomes. Each townhome unit will then be sold separately to a private entity. The minimum lot size for a townhome in an R-4 District is 2,500 square feet, as per Section 15.11.050, *Site Development Regulations*, of the R-4/High Density Residential District of the Council Bluffs Municipal Code (Zoning Ordinance). Proposed Lots 2 and 17, West Broadway

Village exceed the minimum lot size for a townhome in an R-4 District, as they are the end units in their respective set of townhomes. Proposed Lots 2 through 16 vary between 1,326 square feet to 1,541 square feet as each townhome measures 21.21 feet width by 74.54 feet in depth. Per Section 15.11.050, *Site Development Regulations*, of the R-4/High Density Residential District of the Council Bluffs Municipal Code (Zoning Ordinance), the minimum lot size for a townhome dwelling with a lot line coinciding with a common wall is 2,500 square feet. The required 2,500 square feet is not practicable based on the dimensions of each townhome and the layout of the lots in the subdivision; therefore a variance from the minimum lot size is needed.

Section 14.11.040, *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 will result in an 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;*
5. *Be consistent with the City’s comprehensive plan.”*

The Community Development Department has reviewed the applicant’s variance request and recommends approval for the following reasons:

- a. The proposed subdivision is part a master planned development that includes a mixture of housing typologies, lot sizes, and cross access easements for parking and utilities. The need for flexible lot sizes is important to ensure that each lot in this master planned development can be fully served with utilities, have appropriate ingress/egress access, and be constructed in an orderly and efficient manner.
- b. The City’s Comprehensive Plan encourages a variety of housing types in order to meet the needs of the community. The applicant’s proposal includes 84 apartment units and 16 townhomes units that will be marketed to households of varying income levels. The mixture of housing typologies is in the overall best interest of the City.
- c. The applicant has engineered and designed the subdivision to be compatible with existing development in the surrounding area. The subdivision variances are not anticipated to be detrimental to the future residents in and/or adjacent to the subdivision.

- F. All proposed lots in this subdivision have frontage on a public right-of-way (1<sup>st</sup> Avenue, 2<sup>nd</sup> Avenue, South 28<sup>th</sup> Street, and/or South 29<sup>th</sup> Street). Direct vehicular access to each lot will be handled via a shared egress/ingress easement along the south side of proposed Lot 1, West Broadway Village. No street extensions are required to be completed with the proposed subdivision. Additionally, no direct vehicular access shall be allowed from any lots within the subdivision onto 1<sup>st</sup> Avenue. A note dedicating all rights of direct vehicular access onto 1<sup>st</sup> Avenue to the City of Council Bluffs shall be included on the final plat.
- G. Lot 1 contains a stormwater detention easement for the benefit of stormwater runoff within the West Broadway Village Subdivision. A note on the final plat dedicates this easement to the City of Council Bluffs; however, said easement is for the benefit of the private parties within this subdivision and not the community at-large. The developer shall work with the Council Bluffs Public Works Department to determine the appropriate language for dedication and maintenance of said easement on the final plat prior to it being executed and recorded.
- H. The proposed final plat does not state the standard franchise utility easement language for the installation and maintenance of utilities along all front, rear, and side property lines. The standard five-foot and 10 foot-wide easements can be shall reserved along the front, rear, and sides of proposed Lot 1, West Broadway Village for installation and maintenance of utilities. The standard five-foot and 10 foot-wide franchise utility easements are not practicable along the front, rear, and/or sides of proposed Lots 2-17, West Broadway Village due to their unique size for townhomes on said lots. Instead, the applicant is proposing the following franchise utility easements, which coincide with setbacks on said lots:
- Front = 5 feet
  - Rear = 3 feet
  - Side (interior along shared common wall between townhome units) = 0 feet
  - Side (interior between townhome structures) = 10 feet
  - Street Side (exterior facing South 28<sup>th</sup> and South 29<sup>th</sup> Streets) = 10 feet

The applicant shall verify with the each utility provider their proposed modified franchise utility easement for Lots 2 through 17 are acceptable, and the final plat shall be updated to include all franchise utility easement language prior to being executed and recorded. All utilities shall be installed underground and any cost to construct, remove, and/or relocate any utilities within the proposed subdivision shall be the responsibility of the applicant and not the City. Additionally, all easements shall be identified and recorded with the Pottawattamie County Recorder's Office prior to issuance of any building permits.

- I. Sidewalks shall be installed along the frontages of 2<sup>nd</sup> Avenue, South 28<sup>th</sup> Street, and South 29<sup>th</sup> Street in order to provide safe pedestrian access to the existing sidewalk/trail network adjacent to this subdivision. Since the development will be constructed in phases, the timing of said sidewalk construction will be determined as part of the building permit review for each phase. All sidewalk construction shall be completed by the developer and at no cost to the City.
- J. The subdivision is located within a Flood Zone 'X', according to FEMA Map Number 19155C0394E, dated February 4, 2005 and is protected from flooding by a levee along the Missouri River; and

**WHEREAS,** All City Departments and local utility providers were provided a copy of the proposed final plat to review. The following comments were received:

- A. Council Bluffs Water Works stated a water main extension is required for the development and they have been in contact with the developer to discuss it.
- B. MidAmerican Energy stated they had conversations with the developer regarding the proposed five foot easement along the front of the townhomes (adjacent to 2<sup>nd</sup> Avenue) and the three foot easement along the rear of the townhomes. MidAmerican stated they will require the necessary space and easements to meet minimum codes and clearances, as well as, separation distances from other utilities and obstructions. MidAmerican further stated that if the easements and setbacks shown on the plat do not provide for these requirements than additional private easements with the developer may be required.

**WHEREAS,** Final plat approval of a 17-lot residential subdivision to be known as West Broadway Village and being legally described as a replat of Block 12, Bryant and Clark's Addition, along with the vacated east/west alley adjacent, City of Council Bluffs, Pottawattamie County, Iowa, subject to 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. 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. Granting a subdivision variance to allow Lots 2 through 17, West Broadway Village to have lot sizes less than 2,500 square feet, as required in Section

15.11.050, *Site Development Regulations*, of the R-4/High Density Residential District of the Council Bluffs Municipal Code (Zoning Ordinance), based on reasons stated above.

- F. Sidewalks shall be installed along the frontage of 2<sup>nd</sup> Avenue, South 28<sup>th</sup> Street, and South 29<sup>th</sup> Street by the applicant and at no cost to the City. The timing of the sidewalk construction shall be determined as part of the building permit review for each phase of development within the subdivision.
- G. The applicant shall continue to work with each local utility provider to ensure adequate easements are provided for the installation and maintenance of utilities within the subdivision. Said easements should be stated on the final plat, but may also be recorded separately. All easements shall be identified and recorded with the Pottawattamie County Recorder's Office prior to issuance of any building permits.

**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 17-lot residential subdivision to be known as West Broadway Village and being legally described as a replat of Block 12, Bryant and Clark's Addition, along with the vacated east/west alley adjacent, City of Council Bluffs, Pottawattamie County, Iowa, 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  
APPROVED

April 24, 2023.

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MATTHEW J. WALSH

Mayor

Attest: \_\_\_\_\_

JODI QUAKENBUSH

City Clerk