RESOLUTION NO. 19-47

A RESOLUTION GRANTING FINAL PLAT APPROVAL OF A FIVE LOT RESIDENTIAL SUBDIVISION (INCLUDING TWO OUTLOTS) TO BE KNOWN AS STELLA BURK SUBDIVISION.

WHEREAS, General Property Management, LLC, has requested review and approval of a final subdivision plat for a five lot residential subdivision (including two outlots) to be known as the Stella Burk Subdivision; and

WHEREAS, The proposed land consists of 1.032 acres, more or less, of land, and is located West of South 13th Street, and is legally described as: Being a replat of the North 112.5 Feet of Block 59, except the West 78 Feet thereof, including vacated alleyways which abut, and the Vacated 26th Avenue Right-of-Way located West of South 13th Street, all in Railroad Addition, City of Council Bluffs, Pottawattamie County, Iowa; and

WHEREAS, The following comments were provided for the proposed subdivision request:

1. The proposed subdivision is consistent with the purpose and intent of the Council Bluffs Municipal Zoning Ordinance.
2. The entirety of the Stella Burk Subdivision is zoned R-2/Two-Family Residential District, which allows for single family dwellings as a principal use. The homes will be required to meet the site development regulations of the R-2 District.
3. Lots 1, 2, and 3 exceed all Site Development Regulations of the R-2/Two-Family Residential District, and are considered developable.
4. Outlot 1 and Outlot 2 are proposed to be combined with 2532 South 13th Street and 2612 South 13th Street, respectively. The combination of these outlots to those existing properties will be in harmony with the Council Bluffs Zoning Ordinance, and approval will be accomplished administratively through a Property Line Adjustment.
5. The proposed subdivision is consistent with the purpose and intent of the Council Bluffs Municipal Subdivision Ordinance, with the exception of the three-to-one maximum lot depth requirement as set forth in Section 14.14.020(3). The applicant has applied for variances on Lots 1, 2, and 3 of Stella Burk Subdivision to allow a lot depth-to-width ratio of approximately 4.95-to-1, as the three lots will all be 51 feet wide, by 252 feet deep.
6. Per Section 14.11.040 – Variances, evidence must be presented to demonstrate "that due to special conditions, a literal enforcement of the ordinance will result in an unnecessary hardship". The City Council shall have the power to vary such regulation so that substantial justice will be accomplished, provided that the following findings of fact can be proven: (Staff response is italicized)
   (A) Not be contrary to the public interest: *The subject property is surrounded by residential dwellings, many of which on lots that are of a similar dimension to what is proposed. The proposed subdivision will also allow residential development on what was*

previously a privately held vacant property. The development of this subdivision as proposed will not be contrary to the public interest.

(B) Be in the best interest of the city: *The City of Council Bluffs maintains a levee along Indian Creek, located directly adjacent to the subdivision to the West. Locating additional lots within the proposed subdivision would push development closer to the levee area, which could be a detriment to the City in the future. It is in the best interest of the City to allow the subdivision variance, and focus residential development in the vicinity of South 13th Street.*

(C) Be within the spirit and intent of this title: *The subdivision, as proposed, is consistent with the purpose and intent of this chapter, as it protects the public health, safety, and general welfare of the city, preserves the topography of the land, secures public lands and waters, provides growth in accordance with the Comprehensive Plan, is allowing development on previously vacant land, and will not cause undue cost on the City or the developer.*

(D) Not be detrimental to the future residents in and near the proposed subdivision: *The lots, as proposed, have the same depth and a similar width to many lots located North and South of the subject final plat. The proposed lots exceed the width and depth requirements for a lot in the R-2/Two Family Residential District, in which the subdivision is located. Granting the subdivision variance should not be detrimental to future residents, as it will still allow development in accordance with R-2 District Site Development Regulations in the proposed subdivision.*

(E) Be consistent with the city's comprehensive plan: *The Bluffs Tomorrow: 2030 (Comprehensive Plan) designates the subject property as "Low Density Residential", which would allow single-family residential dwellings, as is proposed by the applicant. The Comprehensive Plan does not designate lot specific lot development standards, therefore, the proposal is consistent with the City's comprehensive plan.*

7. All new electric, cable and communication facilities shall be installed underground. All costs to construct, remove and/or relocate any utilities for the proposed subdivision shall be the responsibility of the applicant and not the City.
8. MidAmerican Energy Company stated they have no objections to the proposed final plat. MidAmerican Energy Company did note that they have not been contacted or entered any agreements to extend electric services to the proposed development.
9. Currently, a perpetual utility easement exists along the former 26th Avenue right-of-way, which was vacated by Resolution No. 18-286 on October 8,

2018. The applicant has requested that the South 48.5 feet of that utility easement be vacated to allow Lot 1 to be developed. Utility companies have been contacted and approval is pending. In order for Lot 1 to be considered a developable lot, all utility providers must vacate their interest in the subject utility easement.

10. A public sidewalk shall be installed along the frontages of each lot prior to issuance of a Certificate of Occupancy for a building on each lot, at no cost to the City.
11. The plat does not indicate if any private restrictions and/or covenants will be established for the subdivision, though notes if there are any they will be recorded with the Pottawattamie County Recorder's Office. A copy of said private restrictions and/or covenants shall be provided to the City of Council Bluffs, if applicable. If no covenants are proposed a note shall be stated on the plat indicating such; and

WHEREAS, The Community Development Department recommends final plat approval of a five lot residential subdivision (including two outlots) to be known as Stella Burk Subdivision, as legally described above and as shown on Attachment 'A', subject to all comments stated above and following conditions:

a. All technical corrections discussed above shall be made on the final plat prior to execution of the document.
b. The Public Works Department shall accept all infrastructure into the City's inventory prior to the final plat being signed and recorded; and
c. The final plat shall be recorded within 90 days of City Council approval or the plat shall become null and void unless an extension of has been requested and granted by the Community Development Department Director; and
d. Conform to all City standards and specifications, the zoning and subdivision ordinances and the Department of Public Works Standards for Public Improvements; and
e. All utilities shall be installed underground. Any cost to remove and/or relocate any utilities shall be the sole expense of the applicant and not the City; and
f. The applicant shall provide a copy of any proposed covenants and/or private restrictions associated with the subdivision to the City; and
g. A public sidewalk shall be installed along the frontages of each lot prior to issuance of a Certificate of Occupancy for a dwelling unit on each lot, at no cost to the City; and
h. The developer shall provide the City with two sets of as-built construction drawings and a two-year maintenance bond, upon acceptance of all required improvements.

i. The South 48.5 feet of the perpetual utility easement within the former 26th Avenue right-of-way shall be formally vacated by the City Council prior to the execution of the final plat.

j. Outlot 1 shall be deeded to the owner of the property addressed as 2532 South 13th Street. No building permits shall be approved until the deed and property line adjustment have been executed.

k. Outlot 2 shall be deeded to the owner of the property addressed as 2612 South 13th Street.

l. The subdivision variances to allow Lots 1, 2, and 3, Stella Burk Subdivision, to exceed the three-to-one depth-to-width ratio shall be approved based on the reasons stated above.

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

That the final plat approval for a five lot residential subdivision (including two outlots) to be known as Stella Burk Subdivision, 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.

ADOPTED
AND February 25, 2019.
APPROVED

_____
MATTHEW J. WALSH Mayor

Attest: _____
JODI QUAKENBUSH City Clerk

Planning Case No. #SUB-19-004