

## RESOLUTION NO. 20-24

**A RESOLUTION GRANTING PRELIMINARY PLAN APPROVAL FOR TWO RESIDENTIAL SUBDIVISIONS TO BE KNOWN AS: WHISPERING OAKS SUBDIVISION, PHASE III, LEGALLY DESCRIBED AS PART OF THE NW  $\frac{1}{4}$  NW  $\frac{1}{4}$  AND OF THE SW  $\frac{1}{4}$  NW  $\frac{1}{4}$  OF SECTION 4-74-43 AND PART OF THE SE  $\frac{1}{4}$  NE  $\frac{1}{4}$  OF SECTION 5-74-43, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA, AND WHISPERING OAKS SUBDIVISION, PHASE IV, LEGALLY DESCRIBED AS PART OF THE NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  OF SECTION 5-74-43, PART OF THE NW  $\frac{1}{4}$  NW  $\frac{1}{4}$  OF SECTION 4-74-43, PART OF LOT 1, AUDITOR'S SUBDIVISION OF THE SE  $\frac{1}{4}$  SE  $\frac{1}{4}$  OF SECTION 32-75-43, AND PART OF THE SE  $\frac{1}{4}$  NE  $\frac{1}{4}$  OF SECTION 5-74-43, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.**

**WHEREAS,** T S Development, LLC is requesting preliminary plan approval for two residential subdivisions to be known as Whispering Oaks Subdivision, Phases III and IV, located North of Greenview Road and west of Franklin Avenue; and

**WHEREAS,** The proposed Whispering Oaks Subdivision, Phase III is comprised of 40.21 acres, more or less, and will consist of 47 single-family residential lots and two outlots and proposed Whispering Oaks Subdivision, Phase IV contains 28.1 acres, more or less, and will consist of 55 single-family residential lots; and

**WHEREAS,** the following comments were provided for the proposed subdivisions:

- A. Approval of the preliminary plan is tentative and does not constitute acceptance of the final plat, "but shall be deemed to be an authorization to proceed with the preparation of the final construction plans or performance guarantee and the final plat" (§14.11.060(D)—Subdivision Ordinance). A final plat application for the first phase must be filed within one year of the date of action by the City Council. A request for extension may be made by the sub-divider in writing prior to the expiration date. One-year extensions are considered by the City Planning Commission. Subsequent phases are automatically granted a one-year extension.
- B. All residential dwellings and accessory structures shall comply with the development standards stated in Section 15.08B, R-1/Single-Family Residential District, of the Council Bluffs Municipal Code (Zoning Ordinance).
- C. Collectively, the proposed subdivisions are comprised of 102 single-family residential lots. All of the lots comply with the minimum lot size requirement in an R-1 District.
- D. All proposed lots will have direct access to a public street. The applicant proposes to dedicate land to the City of Council Bluffs for the extension of three existing streets: Balsam Street, Sycamore Street and Blackthorn Street. The applicant also proposes to dedicate two new cul-de-sacs to the City: Balsam Circle and Hemlock Street. Both cul-de-sacs extend from the proposed extension of Balsam Street. Hemlock Street will be extended at a future phase and will connect to Forest Glen Drive. Street names shall be reviewed and approved as part of the final plat procedure.
- E. Lots 198 through 200 and 202 are proposed to be double frontage lots. Furthermore, Lot 201 will have frontages on three public streets: Forest Glen

Drive, Balsam Street and Balsam Circle. Section 14.14.020(A)(8) of the Council Bluffs Municipal Code (Subdivision Ordinance) states “double frontage and reserve frontage lots shall be avoided except where necessary to overcome specific disadvantages of right-of-way, major street, or similar situation exists, in which case double frontage lots are to be preferred.” The Community Development Department finds that it is practical to allow said lots to be double frontage lots due to the topography of the land east of Phase IV, which is intended to serve as a stormwater management feature. However, the Community Development Department requests the developer reconfigure the lots along Balsam Circle to reduce the irregular shape of these lots and ensure the front property line of each lot is the lot line along Balsam Circle. As per Section 15.03.430 of the Council Bluffs Municipal Code (Zoning Ordinance), the front property line is defined as the “shortest lot line along a street other than an alley.” Lot 201 shall be also be reconfigured as to avoid having frontages on more than two public streets.

- F. Lots 226 through 232 will have direct access to Hemlock Street. The Community Development Department finds that due to the topographical constraints, the proposed cul-de-sac is the best option to ensure the optimal amount of land is developed as single-family residential lots while preserving existing natural features, including trees located directly west of Lots 228 through 230.
- G. Lots 169, 170, 189, 190, 201, 202 and 252 abut Forest Glen Drive. All rights of direct vehicular access from said lots onto Forest Glen Drive shall be dedicated to the City of Council Bluffs on the final plat.
- H. The rear property lines of Lots 158 through 169 abut Franklin Avenue. All rights of direct vehicular access from said lots onto Franklin Avenue shall be dedicated to the City of Council Bluffs on the final plat.
- I. All lots will be serviced with utilities (e.g., sanitary/storm sewers, water, electricity, etc.).
- J. All utilities shall be installed underground. All costs to construct, remove and/or relocate any utilities for the proposed subdivision shall be the responsibility of the developer and not the City.
- K. Sidewalk installation along the frontage of each proposed lot shall be completed prior to issuance of a Certificate of Occupancy for each residence.
- L. All future streetlights shall meet Public Works Department standards. All costs associated with the installation of streetlights shall be the responsibility of the developer and not the City.
- M. The Permits and Inspections Division stated they have no comments on the request.
- N. The Public Works Department provided the following comments:

1. Platting shall include all standard notes, show all easements and outlots;
  2. If all viable individual residential lots will be served by gravity sewer system, a sanitary lift station will not be required at this time;
  3. The previously submitted traffic study is adequate for the additional residential development component of this site. Additional traffic analysis will be required at the time of the development of Outlot B;
  4. Improvements to Greenview Road are not required with the additional residential lots at this time. Greenview Road improvements will be done at the time of development of Outlot B;
  5. The Public Works Department will continue to work with the Engineer on all drainage features and will require a full drainage report for the proposed phases; and
  6. All improvements shall be to current standards.
- O. The Parks and Recreation Department provided the following comments:
1. The Valley View and Eastern Hills Trails are located in close proximity to Greenview Road.
  2. The portion of the trail constructed as part of this subdivision would provide the City with a significant portion of the Greenview Trail and bring it closer to its completion, thereby connecting Valley View Trail and Eastern Hills Trail.
  3. In addition, the applicant notes 102 houses being built. It is important to provide the families living in these houses connectivity to our existing trail system.
- P. Greenview Trail will be located within a portion of Greenview Road right-of-way that is located outside the City's corporate limits and is maintained by Pottawattamie County. At the time the preliminary plan for Whispering Oaks Subdivision was approved in 2014, the Pottawattamie County Engineering/Roads Department stated they had no issues with the trail but would not be responsible for its maintenance.
- Q. The City of Council Bluffs recommends that the developer take one of three actions in regards to the construction of Greenview Trail:
1. The developer shall construct the segment of Greenview Trail immediately adjacent to Outlot B up to City standards as part of the development of Whispering Oaks Subdivision, Phase III. All costs associated with the installation of the trail shall be the responsibility of the developer and not the City;
  2. The developer shall construct the segment of Greenview Trail immediately adjacent to Outlot B up to City standards at the time of development of said Outlot B. All costs associated with the installation of the trail shall be the responsibility of the developer and not the City; OR

3. An agreement between the City and developer shall be completed that allows the developer to pay a fee in lieu of installing Greenview Trail. The fee will be based on the total cost to install the requested trail, which will be determined by the City and developer. The agreement and the fee shall be executed prior to final plat submittal of Whispering Oaks Subdivision, Phase III. A covenant shall be included in the final plat of Whispering Oaks Subdivision, Phase III which requires all future owners of Outlot B to adhere to the agreement between the City and the developer.
- R. The Fire Department stated they have no comments on the request.
- S. The Police Department stated they have no objections to the request.
- T. MidAmerican Energy stated they have no objections to the project. They also stated the developer should contact MidAmerican Energy to initiate the process to enter into a formal agreement to extend electric facilities to the new phases; and

**WHEREAS,** The Community Development Department recommends approval of the preliminary plan as shown on “Attachment C”, subject to the comments above and the following conditions:

- A. Approval of the preliminary plan is tentative and does not constitute acceptance of the final plat, but is “deemed to be an authorization to proceed with the preparation of final construction plans or performance guarantee and the final plat” (§14.11.060(D)—Subdivision Ordinance).
- B. With adequate engineering and construction controls, the land is suitable for the proposed development. Construction plans for streets, sanitary sewer and storm drainage shall be submitted to the Public Works Department for review and approval prior to beginning construction. Construction plans and comprehensive plans for grading, drainage and erosion control, including right-of-way during site preparation, utility installation and construction shall be submitted to the Public Works Department for review and approval prior to beginning any earth disturbing activity. All applicable permits necessary to meet local, state and federal requirements shall be the developer’s responsibility.
- C. All utilities shall be installed underground. All costs to construct, remove and/or relocate any utilities for the proposed subdivision shall be the responsibility of the developer and not the City.
- D. Sidewalks shall be installed along the street frontage of each lot at no expense to the City, prior to issuance of a certificate of occupancy for each house.

**NOW, THEREFORE, BE IT RESOLVED  
BY THE CITY COUNCIL**

**OF THE  
CITY OF COUNCIL BLUFFS, IOWA**

That preliminary plan approval for two residential subdivisions to be known as: Whispering Oaks Subdivision, Phase III, legally described as part of the NW  $\frac{1}{4}$  NW  $\frac{1}{4}$  and of the SW  $\frac{1}{4}$  NW  $\frac{1}{4}$  of Section 4-74-43 and part of the SE  $\frac{1}{4}$  NE  $\frac{1}{4}$  of Section 5-74-43, City of Council Bluffs, Pottawattamie County, Iowa, AND Whispering Oaks Subdivision, Phase IV, legally described as part of the NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  of Section 5-74-43, part of the NW  $\frac{1}{4}$  NW  $\frac{1}{4}$  of Section 4-74-43, part of Lot 1, Auditor's Subdivision of the SE  $\frac{1}{4}$  SE  $\frac{1}{4}$  of Section 32-75-43, and part of the SE  $\frac{1}{4}$  NE  $\frac{1}{4}$  of Section 5-74-43, City of Council Bluffs, Pottawattamie County, Iowa, as shown in Attachment "C", is hereby approved subject to the comments and conditions set forth above.

ADOPTED  
AND  
APPROVED

January 27, 2020.

\_\_\_\_\_  
MATTHEW J. WALSH

\_\_\_\_\_  
Mayor

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

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JODI QUAKENBUSH

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City Clerk