RESOLUTION NO. 20-266

A RESOLUTION GRANTING FINAL PLAT APPROVAL OF A THREE-LOT MINOR INDUSTRIAL SUBDIVISION TO BE KNOWN AS TOLTON INVESTMENTS SUBDIVISION, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

WHEREAS, The Community Development Department has received a request from Tolton Investments Ltd, represented by Synder & Associates, Inc., for final plat approval of a three-lot minor subdivision to be known as Tolton Investments Subdivision, being legally described as: Being a replat of Lot 3, Inrip Subdivision Tract #3; and Lots 3 through 11, Lots 20 through 28, and the West 16 feet of Lots 2 and 29, Block 2, East Omaha Plateau and the all of the vacated east/west alley adjacent and the north one-half of the vacated 17th Avenue right-of-way adjacent on the south; and part of Blocks 5 and 6, East Omaha Plateau and the south one-half of the vacated 17th Avenue right-of-way adjacent and all of the vacated South 34th Street right-of-way adjacent; and part of Government Lot 1 of the NE1/4 NE1/4 of Section 4-74-44, City of Council Bluffs, Pottawattamie County, Iowa, and being more fully described on Attachment "A"; and

WHEREAS, The proposed subdivision consists of 6.01 acres (more/less) of industrial zoned land and is located along Nebraska Avenue and 16th Avenue. Proposed Lot 1 will include the applicant's business, Duke Rentals (3400 Nebraska Avenue), and proposed Lots 2 and 3 will be developed with new industrial uses in the future. Proposed Lot 3 currently has an existing residential dwelling on it that is considered a non-conforming use due to the underlying I-2 District zoning and the applicant has stated they plan to demolish the dwelling once the final plat is executed by the City and recorded with the County; and

WHEREAS, The following comments have been received:

A. The proposed subdivision is generally 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. All lots in the subdivision exceed the minimum I-2/General Industrial District lot size requirements and have direct frontage on 16th Avenue and/or Nebraska Avenue. All development activity in the subdivision shall comply with standards stated in Chapter 15.21, *I-2/Industrial District* of the Municipal Code (Zoning Ordinance). Any need for cross vehicular access between the three parcels shall be shown as a cross ingress/egress easement on the final plat.

C. Public water, sanitary sewer and storm sewer utilities are available along Nebraska Avenue and 16th Avenue to service all lots in the subdivision. Any cost to construct, extend, remove and/or relocate any utilities within or to this subdivision shall be at the sole expense of the applicant and/or developer, and not the City of Council Bluffs.

D. The Permits and Inspections Division stated that the residential dwelling at 3425 16th Avenue utilizes a septic system for their solid waste disposal and that the proposed subdivision layout will result in the dwelling and septic tank being located on proposed Lot 3, while the septic tank lateral fields will be located on proposed Lot 2. This Division further stated the

applicant can no longer use the existing septic system since sanitary sewer is located within 200 feet, and that it must be abandoned and removed prior to the final plat being signed by the City. The applicant was made of this comment and they later responded that they are working to relocate the existing tenant in the dwelling within the next 90 days and that their intent is to demolish the house once the tenant moves out. The applicant has offered to provide the City with a letter stating their course of action in order to continue moving forward with the plat approval review/approval process. The Building Division has agreed to accept the letter in order to keep the plat review process moving forward; however they have requested the City not sign the plats until such time the septic system is removed from the property. The Community Development Departments recommends the final plat not be signed by the City until the applicant removes the septic system and/or connects the existing dwelling to sewer.

E. Council Bluffs Public Works stated the all standard easements along the property lines and the associated notes shall be stated on the final plat.

F. Council Bluffs Fire Department stated they have no comments for the final plat request.

G. MidAmerican Energy Company stated they have no objection to the final plat and that the applicant should contact them to discuss any costs and timelines to relocate and/or extend electric utility services to the lots in the subdivision.

H. All electric, cable and communication facilities shall be installed underground. All costs to construct, remove and/or relocate any utilities in this subdivision shall be the responsibility of the applicant and/or developer, and not the City.

I. The Council Bluffs Fire Department stated they have no comments for the final plat.

J. The following technical corrections shall be made to the final plat prior to being executed by the City:

1. Notate the standard five and ten foot-wide franchise utility easement language along all front, side, and rear property lines along with the following notes on the final plat:

a. *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.*

b. *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.*

c. *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.*

d. *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.*

e. *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.*

f. *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.*

g. *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.*

h. *GRANTOR RESERVATION: Grantor reserves the right to use the Easement Area for other purposes provided however these purposes shall not interfere with grantees use of the Easement Area under the rights of this agreement.*

2. Revise the course bearing distances stated in Paragraph 1 of the legal description to match the bearing distances stated on the plat map.

3. Notate the total acreage and square feet of land that comprises the subdivision on the final plat

4. Specify on the plat if any private restrictions and/or covenants will be recorded with the subdivision. If none, state that no private restrictions and/or covenants will be recorded with the subdivision on the plat; and

WHEREAS, The Community Development Department recommends final plat approval of the proposed three-lot minor subdivision to be known as Tolton Investments Subdivision, as shown and legally described on Attachment "A", 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. The applicant shall abandon and remove the septic system located on Proposed Lots 2 and 3 prior to the City executing the final plat.

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

That the final plat approval of a proposed three-lot minor subdivision to be known as Tolton Investments Subdivision, as shown and legally described on Attachment "A", is hereby approved subject to all local, state and federal regulations.

BE IT FURTHER RESOLVED

That the Mayor and City Clerk are hereby authorized and directed to endorse the final plat.

ADOPTED
AND November 9, 2020.
APPROVED

_____
MATTHEW J. WALSH Mayor

Attest: _____
JODI QUAKENBUSH City Clerk