RESOLUTION NO. 21-291

A RESOLUTION GRANTING FINAL PLAT APPROVAL OF A 101-LOT RESIDENTIAL SUBDIVISION TO BE KNOWN AS WHISPERING OAKS, PHASE III, LEGALLY DESCRIBED AS BEING A TRACT OF LAND THAT IS PART OF THE NE1/4 NE1/4 OF SECTION 5-74-43, AND ALSO WITH PART OF THE NW1/4 NW1/4 OF SECTION 4-74-43, AND ALSO TOGETHER WITH LOT 3, AUDITOR'S SUBDIVISION OF THE SW1/4 SW1/4 OF SECTION 33-75-43, AND ALSO TOGETHER WITH LOT 1, AUDITOR'S SUBDIVISION OF THE SE1/4 SE1/4 OF SECTION 32-75-43, ALL IN THE CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

WHEREAS, T S Development, LLC has submitted a request for final plat approval for 101-lot residential subdivision to be known as Whispering Oaks Phase III; and

WHEREAS, The proposed subdivision is located North of Forest Glen Drive and between Sycamore Street and Bayberry Circle and totals 63.72 acres in size; and

WHEREAS, The preliminary subdivision plan for Whispering Oaks Phase III was approved by the Council Bluffs City Council on January 27, 2020 by Resolution No. 20-24 and this proposed final plat is generally consistent with the approved preliminary plan; and

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

A. The proposed subdivision is consistent with the purpose and intent of the Council Bluffs Municipal Subdivision and Zoning Ordinances.

B. The subject property is zoned R-1/Single-Family Residential District. All building construction within the proposed subdivision shall comply with the site development standards stated in Chapter 15.08B *R-1/Single-Family Residential District* of the Council Bluffs Municipal Code (Zoning Ordinance).

C. All proposed lots comply with minimum R-1/Single-Family Residential District lot dimensions and size requirements.

D. Balsam Street, Balsam Court, and Hemlock Street are proposed to be dedicated to the City of Council Bluffs as part of the Whispering Phase III final plat. All lots in this subdivision will have frontage and direct access to one or more of these streets. Furthermore, a note has been placed on the final plat that dedicates all rights of direct vehicular access from Lots 201, 202, 252, 253, and 295 onto Forest Glen Drive to the City of Council Bluffs.

E. The majority of all public utility infrastructure and streets are fully constructed within the subdivision. Section 14.12.070, *Performance Guarantees* of the Council Bluffs Subdivision Ordinance allows a developer to establish an escrow account with the City in lieu of actual and immediate construction of any required improvement for a subdivision. The developers engineer has submitted an opinion of probable cost and a check in the amount of $108,679.59 to the City of Council Bluffs for all outstanding infrastructure items that are not completed (see Attachment B). This escrow account will be held in the City Clerks' office until all remaining infrastructure items outlined in the engineer's opinion of probable cost are completed, inspected,

and approved by the Council Bluffs Public Works Department. Once all work is completed, the escrow funds will be returned back to the developer.

F. The far westerly section of Hemlock Street is constructed half-way through Outlot A and then dead-ends. The right-of-way for completing this section of Hemlock Street will be dedicated to the City as part as part of the Whispering Oaks Phase III final plat; however the street will not be fully constructed until such time land to the immediate west is developed, as per the developer/owner's and the adjoining property owners, David and Anna Jones, court agreement. Temporary turnaround easements for the far westerly section of Hemlock Street must be established on the final plat and their location and size shall not impede development on any adjacent buildable lot. A letter from the developer's engineer explaining the timing for completing Hemlock Street is included with this report as Attachment 'C'.

G. The Council Bluffs Public Works Department provided the following comments:

1. Cost estimate for work remaining in the subdivision is acceptable to Public Works. A check in the amount of $108,679.59 has been filed with the City Clerk to cover the cost of all remaining work.
2. A temporary turnaround easement will be required on all lots affected by the engineers plan.
3. Execution of the final plat does not waive the need for inspection and testing of all infrastructure being dedicated to the City.
4. All documentation of test and inspections shall be provided to the City upon completion.
5. The developer/owner shall require individual lots to have a sediment and erosion control plan at the time of building construction.
6. The developer/owner shall assume responsibility for any erosion issues within the platted lots and all outlots until such time they are turned over to private owners or a homeowners association.

H. The Council Bluffs Water Works (CBWW) stated all water mains are installed in the subdivision, except for a 100' section along the far westerly portion of Hemlock Street. CBWW stated the last 100' of the water main extension should be completed in the near future. Said water main section shall be completed prior to executing the final plat.

I. Black Hills Energy stated they have no concerns with the proposed final plat.

J. Lumen stated they have no concerns for the proposed final plat.

K. MidAmerican Energy stated they have no concerns regarding the proposed final plat.

L. All 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.

M. A public sidewalk shall be installed along the frontages of each lot prior to issuance of a Certificate of Occupancy for a dwelling on each lot, at no cost to the City. Additionally, a public sidewalk shall be installed along the frontage of Outlots A and C once Hemlock Street is fully constructed.

N. A copy of the any private easements/covenants shall be provided to the City and recorded with the final plat.

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

1. Sheet 2 of 5:
   a. Label the lot depth and course bearing distance along the common lot line between Lots 232 and 233, and between Lots 233 and 234.
   b. Revise the course bearing distance along the westerly property line of Lot 42, Whispering Oaks Subdivision to be consistent with the course bearing distance stated in the subdivisions legal description on sheet 5 of 5.
   c. Notate the book/page number of the recorded utility easements lying south/southwest of Outlot A, and south of Lots 232 and 233 on the final plat.
   d. Label the book/page number for the recorded 30 foot-wide sanitary sewer easement that extends through Outlot B.
2. Sheet 3 of 5:
   a. Label the easement type and width between Lots 241 and 242, and assign to the Whispering Oaks Homeowners Association as part of the "Standard Utility Easement" paragraph on sheet 5 of 5.
   b. Label the lot depth and course bearing distance along the common property line between Lots 288 and 289.
   c. Revise the course bearing distance along the westerly property line of Lot 42, Whispering Oaks Subdivision to be consistent with the course bearing distance stated in the subdivisions legal description on sheet 5 of 5.
   d. Label the book/page number for the recorded 30 foot-wide sanitary sewer easement that extends through Outlot B.
3. Sheet 5 of 5:
   a. Revise the "Proprietor's Statement" to include Outlots B and C, and replace the street names River Birch Court and Linden Court with Balsam Street, Balsam Circle, and Hemlock Street; and

WHEREAS, The Community Development Department recommends final plat approval of a 101-lot residential subdivision to be known as Whispering Oaks Phase III, as legally

described above and as shown on Attachment 'A', subject to all comments stated above and following conditions:

A. All technical corrections shall be incorporated into the final plat document prior to being executed; and

B. 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

C. 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 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

E. The applicant shall provide a copy of any proposed covenants and/or private restrictions associated with the subdivision to the City, or place a note on the final plat indicating none will be recorded; and

F. 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.

G. 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.

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

That the final plat approval for a 101-lot residential subdivision to be known as Whispering Oaks Phase III, as legally described above and as shown on Attachment 'A', 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 APPROVED October 11, 2021

_____
MATTHEW J. WALSH Mayor

Attest: _____
ALLISON HEAD Administrative Secretary