



Planning & Zoning Commission

COMMUNITY DEVELOPMENT DEPARTMENT

September 8, 2014 Meeting

SUBJECT: Consider recommending approval of PZ Case 14-33 a Preliminary and Final Plat for Beaver Creek Ventures Plat 1. The subject property is located south of NW 78th Avenue and nearly 760 feet west of NW 100th Street.

SYNOPSIS:

The applicant, Beaver Creek Ventures, L.L.C., wishes to subdivide an 9.58 acres into three lots (one for street right-of-way) and two outlots.

RECOMMENDATION:

Staff recommends approval and provides the following motion for the commission’s consideration:

The Planning & Zoning Commission recommends approval of PZ Case No. 14-33, the Preliminary and Final Plats for Beaver Creek Ventures Plat 1, subject to the following conditions:

1. The project shall conform to the requirements, standards and regulations of the City of Johnston.
2. All final plat documentation shall be fully executed and delivered to City Staff (originals) for review and approval at least six (6) working days prior to the City Council meeting at which the final plat will be considered for approval.
3. City Council deferral of sidewalk installation along NW 78th Avenue until reconstruction of the road surface, at which time it shall be installed with the road improvement project, or until otherwise directed by the city council, at which time the costs of such shall be assessed to the adjacent property owners.
4. Applicant submittal of an executed petition and waiver for improvements to NW 78th Avenue based upon 275.50 lineal feet of frontage prior to the City Council approval of a final plat.
5. Payment of sanitary sewer district connection fees in the amount of \$15,510.50 is required prior to council approval of the final plat.
6. Payment of water district connection fees in the amount of \$5,250 is required prior to council approval of the final plat.

7. The following amendments to the preliminary and final plats

shall be submitted Prior to City Council approval of the final plat:

- a. The Preliminary and Final Plats shall be revised to indicate the book/page number for the existing 33' R-O-W easement depicted on the plat drawings.
- b. The preliminary plat shall be revised to indicate the size and location of the existing sanitary sewer utility within the NW 78th Avenue right-of-way.
- c. The applicant shall provide culvert design details for the proposed driveway serving lot 1.
- d. The Preliminary Plat shall be revised to include a note stipulating the timing and responsibility for sanitary sewer and water connections for both lots.
- e. The applicant shall provide information on drainage easements, MPE's and certified elevations at lot lines.
- f. The applicant shall provide an inventory of existing trees of 6" caliper and greater and shall stipulate which trees are to be removed.

Attachments:

Preliminary and Final Plats as prepared by Civil Engineering Consultants, Inc. ;
City staff comments dated 8-13-14;
Letter from Foth Engineering, dated 8-13-14;
Vicinity Map.

APPLICANT:	Beaver Creek Ventures, L.L.C. Tom Skeens PO Box 3597 Des Moines, IA 50323
REPRESENTATIVE:	Civil Engineering Consultants, Inc. 2400 86 th Street #12 Des Moines, IA 50322
BACKGROUND & PRIOR APPROVALS:	<p>The subject property was annexed into city limits in 2008 as part of the 837.52 acre annexation of properties east and west of NW 100th Street and north of NW 70th Avenue (known as the Northwest Annexation).</p> <p>Upon annexation, the subject property was given an R-E, Residential Estate zoning designation which allows single family uses on lots with a minimum frontage of 100 feet and minimum three-acre lot area.</p> <p>In January of 2013, a nine-lot subdivision layout was presented to the City Council at a work session meeting for feedback per developer inquiry into a potential rezoning of the property. The Council noted inconsistencies with the Comprehensive Plan and the developer did not move forward with the proposal.</p> <p>In January of 2014, Jim Postma submitted a petition with necessary signatures to rezone the subject property from RE to R-1(90) at a density not to exceed 1.5 units per acre (to be enforced by development agreement). The petition was accepted by the City Council and referred to the Planning and Zoning Commission for recommendation with an accompanying request to amend the Comprehensive Plan from Rural Density Residential to Low Density Residential. The Planning and Zoning Commission voted to recommend the City Council deny the rezoning request and Comprehensive Plan amendment. The applicant chose not to proceed to the City Council for consideration.</p>
COMPREHENSIVE PLAN:	The subject property is designated on the Johnston 2030 Comprehensive Plan land use map as Rural Density Residential (RDR). The Comprehensive Plan defines RDR as single-family detached housing not to exceed two units per acre. However, the property is located in the Northwest Area Focus Area of the Comprehensive Plan which further restricts land use of the subject property to an overall average density not to exceed 0.34 units/acre (the equivalent of three-acre lots).
ZONING DISTRICT & BULK REGULATIONS:	<p>The subject property is currently zoned R-E, Residential Estate District, with the following bulk requirements:</p> <p>Maximum Density .033 units per acre</p>

Min Lot Width 225 feet
Front yard setback 50 feet
Side yard setback 15/35 feet
Rear Yard Setback 50 feet

As stated above, the property is located in the Northwest Area Focus Area of the Johnston 2030 Comprehensive Plan which further restricts land use of the subject property to an overall average density not to exceed 0.34 units/acre (the equivalent of three-acre lots).

TRAFFIC ACCESS & CIRCULATION:

Both Proposed lots have direct access to NW 78th Avenue. Outlots 'Y' and 'Z' are not buildable and there is no access requirement for said outlots. Given the low density of the subdivision, individual accesses to NW 78th Avenue are permissible. Lot 2 is served by existing access drive. Staff recommends a condition for approval to provide culvert design details for the proposed driveway serving lot 1.

Staff recommends an additional condition for approval to revise the Preliminary and Final Plats to indicate the book/page number for the existing 33' R-O-W easement depicted on the plat drawings.

SIDEWALKS:

Sidewalks are required along all public streets at the time of site development per Ordinance 180.42.10. NW 78th Avenue is an unimproved asphalt road surface with adjacent ditches for conveyance of stormwater. There are currently no sidewalks along this roadway adjacent to the proposed subdivision. Due to the above factors, staff recommends council deferral of sidewalk installation along NW 78th Avenue until reconstruction of the road surface, at which time it shall be installed with the road improvement project, or until otherwise directed by the city council, at which time the costs of such shall be assessed to the adjacent property owners.

WATER:

The subject property is within the Northwest Area Water District. Payment of district connection fees in the amount of \$1,750 per acre is required prior to City Council approval of the Final Plat. Lot 2 is already served by municipal water and applicable connection district fees have been paid; therefore, the fees for Lot 1 are calculated as follows: \$1,750 x 3 acres = \$5,250. Said fees must be paid prior to council approval of the final plat.

Staff recommends a condition for approval to amend the preliminary plat to include a note timing and responsibility for utility connections.

SANITARY SEWER:

The subject property is within the Little Beaver Creek Trunk Sanitary Sewer Connection District. Payment of district connection fees in the amount of \$3,350 per acre is required prior to City Council approval of the Final Plat.

There is no existing sewer connection for either proposed lot. Past precedent allows existing lots to pay a “one-acre” connection fee with additional fees required if said lot is further subdivided. As derived from this practice, a connection fee of \$3,350 is required for Lot 2. Additional fees are attributable to Lot 1 and Lot A and are calculated as follows: \$3,350 x 3.63 acres = \$12,160.50. Outlots are excluded from the connection district fee until/unless platted as a buildable lot in the future, at which time additional connection fees will be applicable. Sanitary sewer district connection fees totaling \$15,510.50 are due prior to council approval of the final plat.

Staff recommends a condition for approval to revise the preliminary plat to indicate the location and size of the existing sanitary sewer utility within the NW 78th Avenue right-of-way and depict the size and location of proposed sanitary sewer connections for lots 1 and 2. Staff further recommends a condition for approval to amend the preliminary plat to include a note timing and responsibility for utility connections.

DRAINAGE:

Water generally drains from southwest to northeast across the subject property. Staff recommends a condition for approval to provide information on drainage easements, MPE’s and certified elevations at lot lines. Staff further recommends a condition for approval to provide an inventory of existing trees of 6” caliper and greater which also stipulates which trees shall be removed.

PARKLAND DEDICATION:

This plat is considered a Minor Subdivision and therefore exempt from Parkland Dedication requirements.

IMPROVEMENTS TO ADJACENT STREETS:

Pursuant to Chapter 180.42 of the Subdivision Regulations and Resolution 08-53, the applicant shall be responsible participation in the reconstruction of NW 78th Avenue to improve the roadway to a collector standard. Prior to the City Council approval of a final plat for the subject property, the applicant must submit a petition and waiver based upon 275.50 lineal feet of frontage on NW 78th Avenue. A draft petition and waiver is included as an attachment.

FLOODPLAIN:

This area is not within a 100 year or 500 year floodplain as designated by the Flood Insurance Rate Map.

PLAT SUMMARY:

Lots:	3 (Lot A is ROW)
Area:	9.583 Acres
Area of Streets:	N/A
Other Area Dedicated:	Lot A - .63 Acres

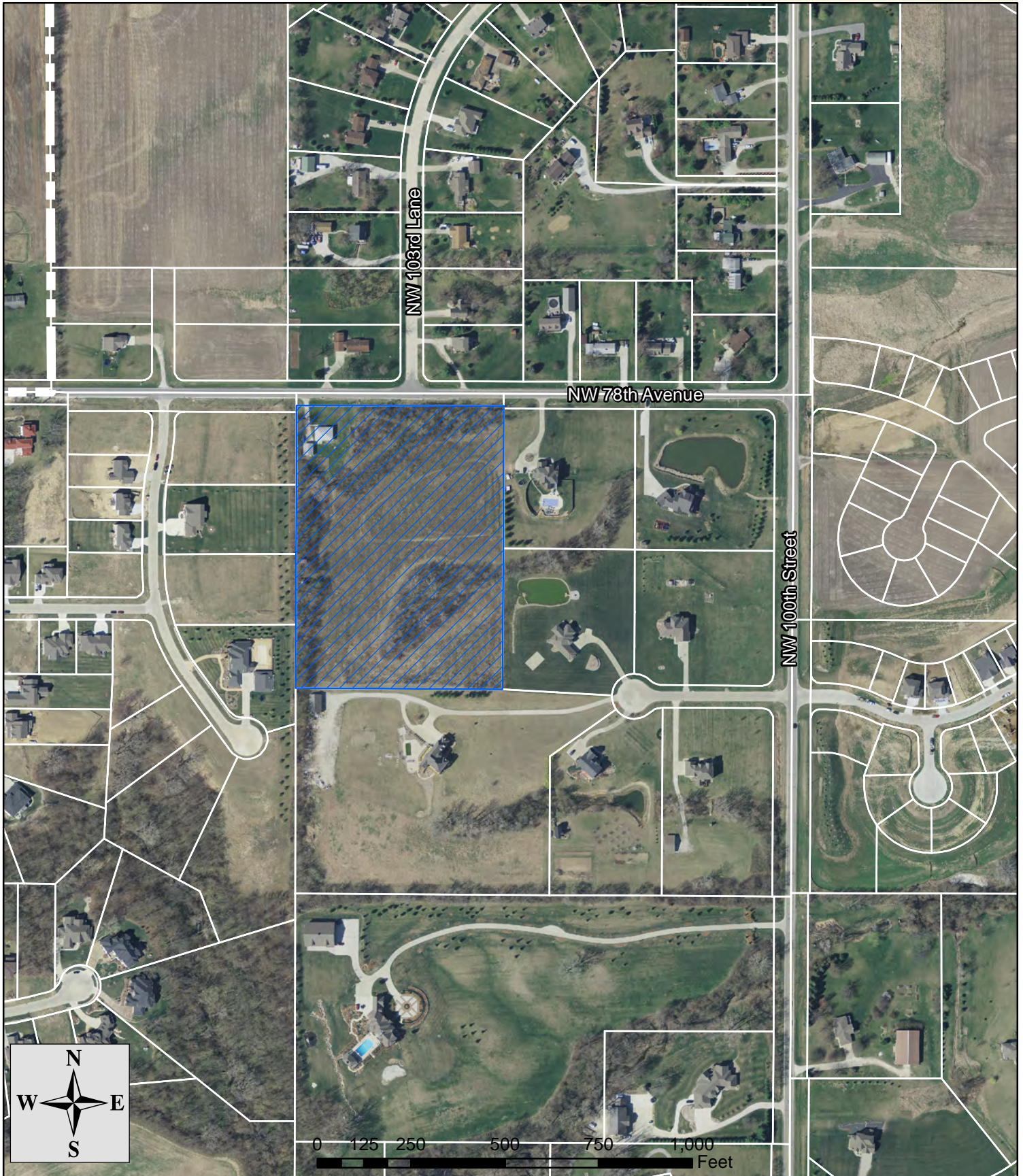
FINAL DOCUMENTATION:

In order to proceed to the City Council with the final plat, the following documents will be required:

- a. Attorney’s title opinion
- b. Polk County Treasurer’s Tax Certificate

- c. Consent to Plat (Owner and Lender)
- d. Warranty Deed Lot 'A'
- e. Lenders partial release of mortgage Lot 'A'
- f. Groundwater Hazard Statement for Lot 'A'
- g. Petition and Waiver for improvements to NW 78th Avenue.
- h. Payment of Sanitary Sewer District connection fees: **\$15,510.50**
- i. Payment of Water District connection fees: **\$5,250.**

Beaver Creek Ventures Plat 1 Vicinity Map



PETITION AND WAIVER

THIS AGREEMENT made and entered into by and between the City of Johnston, Iowa, hereinafter called the CITY, and Beaver Creek Ventures, L.L.C., hereinafter called the PROPERTY OWNERS, WITNESSETH:

WHEREAS, the City proposes to construct certain public improvements ("improvements") in said City; and

WHEREAS, the undersigned Property Owners desire that the improvements be constructed to benefit their respective properties and that special assessments be levied against their property as hereinafter described opposite their names. The general description and location of said improvements being as follows:

NW 78th Avenue Improvements adjacent to the north boundary of Beaver Creek Ventures Plat 1.

The assessable improvements include a standard thirty-one foot local street, drainage improvements up to a 12" diameter pipe, a four-foot sidewalk, proportionate share of engineering and administration and proportionate depth of pavement (depth 7").

The properties to be assessed are described as follows:

Lots 1 and 2 of Beaver Creek Ventures Plat 1, an official plat, Johnston, Polk County, Iowa.

NOW, THEREFORE, BE IT AGREED AMONG THE PARTIES HERETO AS FOLLOWS:

As soon as practicable the City shall have the right to cause the above described improvements to be constructed in accordance with such plans and specifications as it shall deem appropriate. The construction of said improvements shall be under the supervision of an engineer to be selected by the City.

For the purpose of this Agreement, the City may elect to enter into one or more contracts for the construction of said improvements as a part of any contract for a public improvement project entered into prior to the receipt of this instrument as authorized by Section 384.41(2) of the City Code of Iowa.

In consideration of the construction of said improvements, the undersigned Property Owners hereby waive the public hearing on the adoption of the Resolution of Necessity and the mailing and publication of Notice thereof, and all other legal formalities of whatsoever kind or character required by the laws of Iowa to be observed by cities in the construction of said improvements where the expense of such improvements is to be assessed against private property. The undersigned Property Owners each and all hereby expressly waive each and every question of jurisdiction, the intention of the Property Owners being to authorize and direct said City to construct the improvement without requiring any of the formalities or legal proceedings required of cities by the statutes of Iowa.

It is further agreed that when said improvements have been constructed in accordance with the plans and specifications that the City may make assessments against the properties of the undersigned Property Owners for the cost of the construction of said improvements, including the cost of engineering, supervision, preparation of assessment schedule, and a ten percent Default and Deficiency Fund as authorized by Section 384.44, City Code of Iowa, and that said assessments so made shall be a lien upon the properties hereinafter described, and each of the undersigned Property Owners hereby agrees to pay the amount which is thus assessed against his property, and said assessment shall have the same legal force and effect as if all the legal formalities provided by law in such cases had been fully and faithfully performed and observed.

Said assessments costs have been established as \$72,363.50 to be assessed as follows:

Lot 1 at an assessment of \$36,181.75 and
Lot 2 at an assessment of \$36,181.75.

At the time of assessment, the above-listed 2008 figures shall be adjusted for inflation with the Engineering News Record's construction cost index being used to calculate such adjustment. Each of the undersigned Property Owners hereby expressly waive every objection to said assessment, any limitation of the amount thereof as a percentage of valuation and any right to defer or postpone payment of the assessment. Said assessment shall be paid by the undersigned Property Owners within the time provided by Statute for the payment of special assessments for such improvements. Any entitlement to agricultural deferment under Chapter 384 of the City Code of Iowa is hereby reserved by the property owners.

The amount and proportion of the cost of the improvements, to be paid by the several Property Owners, shall be ascertained and determined by the Engineers and by them reported to the City Council which shall make such changes or alterations as they

may require, and when said assessments are finally passed by the Council and by it levied, they shall constitute the assessments against the properties.

Property Owners hereby authorize the City Council to pass any Resolution requisite or necessary to order and secure said improvements, to provide for the construction of the same and to make the assessments herein provided for, without further notice to said Property Owners, or any of them, and any such Resolution may contain recitals that said improvements are ordered or made by the Council without petition of property owners, without in any way qualifying this petition or releasing the Property Owners from their obligation to pay the assessments levied against their property for the cost of said improvements and to issue improvement bonds payable out of said assessments.

Each Property Owner warrants that his real estate described below is free and clear of all liens and encumbrances other than for ordinary taxes, except for such liens as are held by lienholders hereinafter listed and designated as signers of this Petition and Waiver, who by execution of this Petition consent to the subordination of their lien to the special assessment liens herein described. Each Property Owner further agrees to subordinate the sale of any part of his listed property to the terms of this Petition and Waiver, and, upon failure to do so, to pay the full amount of the assessment on demand. Each lienholder designated below, by execution of this Petition and Waiver, agrees and consents that his lien or liens shall be subordinated to the lien of the assessments levied pursuant hereto.

Property Owners agree that this Petition and Waiver shall be effective after the approval hereof by resolution of the City Council and that this Petition and Waiver is to be binding on the parties to this document, their agents, representatives, employees, heirs, assigns, administrators, executors and all other persons, firms or corporations who make or could make any claim by or through any party hereto or their agents, representatives, employees, servants, and all other persons, firms or entities whomsoever.

