CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

Date: July 24, 2017

ITEM: Mill Ridge Plat 3, Southeast corner of S. 91st Street and Nelle Lane – Plat property into 1 lot for a community clubhouse and pool– Mill Ridge Homes LLC – FP-003505-2017

RESOLUTION: Acceptance of Surety in Lieu of Public Improvements, Approval and Acceptance of Easement and Approval and Release of Final Plat

FINANCIAL IMPACT: Undetermined.

BACKGROUND: The applicant, Mill Ridge Homes LLC, represented by Josh Trygstad of Civil Design Advantage is requesting approval of a Final Plat for approximately 0.54 acres located at the southeast corner of S. 91st Street and Nelle Lane. The applicant proposes to subdivide the property into 1 lot for construction of a community clubhouse and pool.

CITY COUNCIL SUBCOMMITTEE: This project was presented to the Development and Planning City Council Subcommittee on May 30, 2017 as an informational item. The Subcommittee expressed support of the development.

OUTSTANDING ISSUES: There are no outstanding issues. Staff notes the following:

- *Consistency with the Preliminary Plat:* The Mill Ridge preliminary plat shows this area to be divided into 4 lots for a pinwheel townhome building. This final plat consolidates those lots into one to be used for the clubhouse. This lot will use a very similar utility layout and will be graded similarly to what would have been done for the townhomes. City code states that the final plat must be consistent with the design of the preliminary plat. Historically, when there are minor differences between the preliminary and final plat, such as a reduction in the number of lots that does not affect utilities or grading, the city has considered the preliminary and final plats to be consistent. This methodology was used while reviewing this case and Staff is comfortable with applying it in this case.

- *Deferred Construction of 91st Street*: This development is located at the southeast corner of S. 91st street and Nelle Lane. S. 91st Street comes to a dead end about 80 feet south of the intersection and about half of the distance of the lot. The Subdivision Regulations within City code state that adjacent developments shall provide for continuation or completion of any existing streets unless variations (deferments) are recommended by the Plan and Zoning Commission, and approved by the City Council. For this case, the applicant is requesting to construct the southern half of S. 91st street at the same time they construct a future southern phase. Given the location and how the area is developing, the southern half of S. 91st Street would not be utilized until future phases to the south are developed. Staff is comfortable with the deferment request and recommended a condition of approval to the Plan & Zoning Commission that the applicant provide surety in lieu of construction of the southern 70 feet of S. 91st street prior to the recordation of the plat. The applicant has since provided surety for the construction of 91st street, including all pertinent improvements and has provided surety to West Des Moines Water Works for the extension of the water main.

- *Legal Documents:* As part of this approval, the Council is approving and accepting the following:
  - Easements for sanitary sewers.
  - Surety in lieu of the construction of public improvements (portion of S. 91st Street).

COMPREHENSIVE PLAN CONSISTENCY: The project has been reviewed for consistency with the Comprehensive Plan. Based upon that review, a finding has been made that the proposed project is consistent with the Comprehensive Plan in that the project is consistent with all of the goals and policies of the Comprehensive Plan and the land use map of the Comprehensive Plan.

RECOMMENDATION: Based upon the preceding review and a finding of consistency with the goals and policies of the Comprehensive Plan, staff recommends the City Council approve and release the Final Plat, Mill Ridge Plat 3, to subdivide the subject property into 1 lot for a community clubhouse and pool, subject to the applicant meeting all City Code requirements and the following:

1. Before any building permits will be issued for the clubhouse building to be located within Mill Ridge Plat 3, the Final Plat must be recorded with Dallas County.
2. An approved water supply, as defined in the City of West Des Moines Fire Code, must be installed and pass inspection prior to above ground or combustible construction.
3. City Council approve deferment of the construction of the south 70 feet of S. 91st street until such time that development of property directly south occur.

Lead Staff Member: J. Bradley Munford JBM

STAFF REVIEWS:

Department Director	VS
Appropriations/Finance	
Legal	RJS
Agenda Acceptance	RTJ

PUBLICATION(S) (if applicable)

Published In	n/a	
Date(s) Published	n/a	
Letter sent to surrounding property owners		n/a

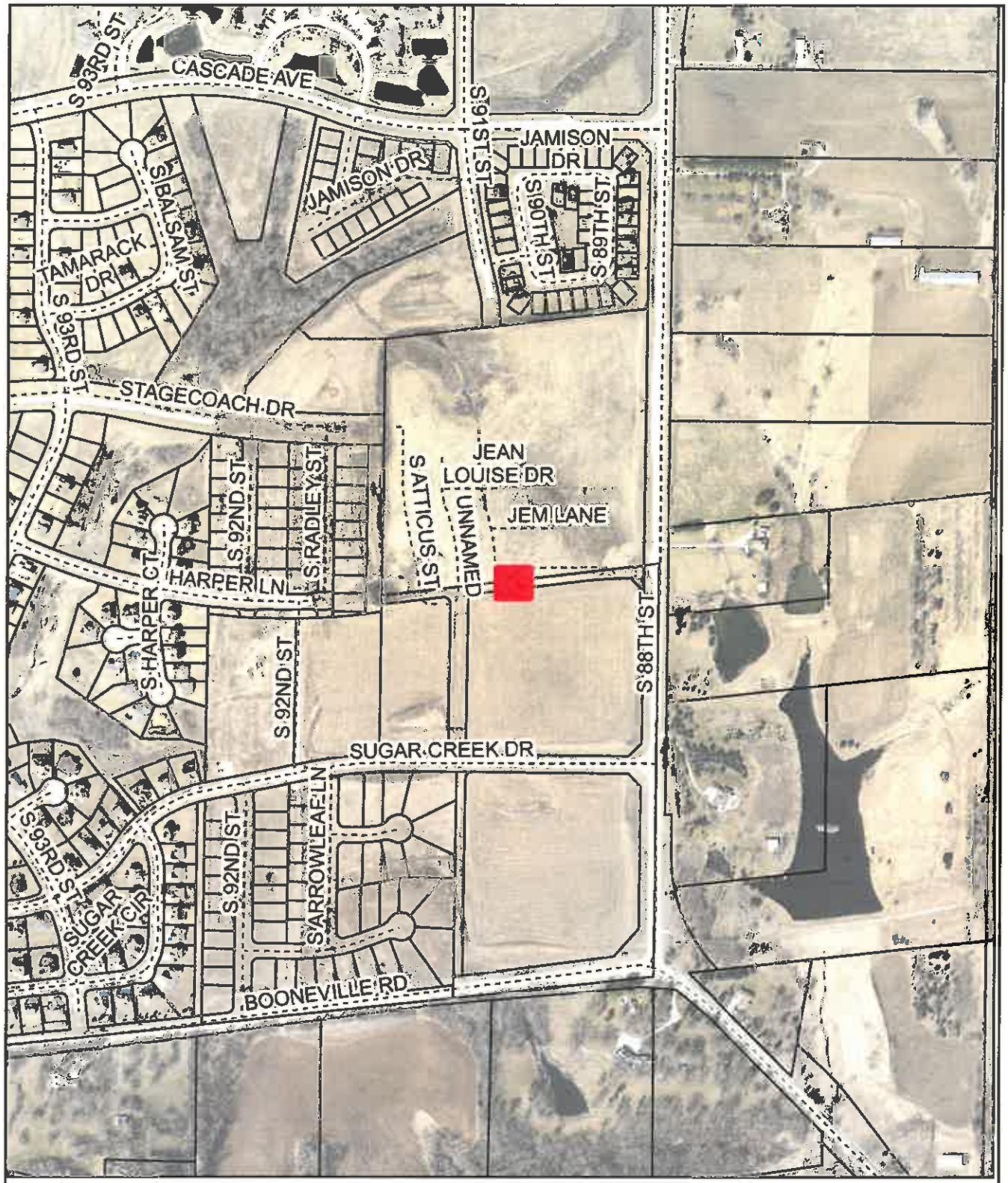
SUBCOMMITTEE REVIEW (if applicable)

Committee	Development and Planning		
Date Reviewed	May 30, 2017		
Recommendation	Yes X	No ☐	Split ☐

ATTACHMENTS:

Exhibit I - Location Map
Exhibit II - Final Plat
Exhibit III - Resolution: Acceptance of Surety, Approval and Acceptance of an Easement, Approval and Release of the Final Plat
- Exhibit A - Conditions of Approval
- Exhibit B - Easements and Agreements

EXHIBIT I



THE CITY OF West Des Moines.

Mill Ridge Clubhouse

N

S:___Development Projects\Tallyns Reach (aka Michaels Landing & Woodland Hills)\Mill Ridge (Plat of Miller Property SWC of S 88th and Stagecoach Dr)\Final Plats\Mill Ridge Plat 3\FP-003505-2017_SR_Mill Ridge Plat 3_07-24-2017.docx

EXHIBIT II

MILL RIDGE PLAT 3

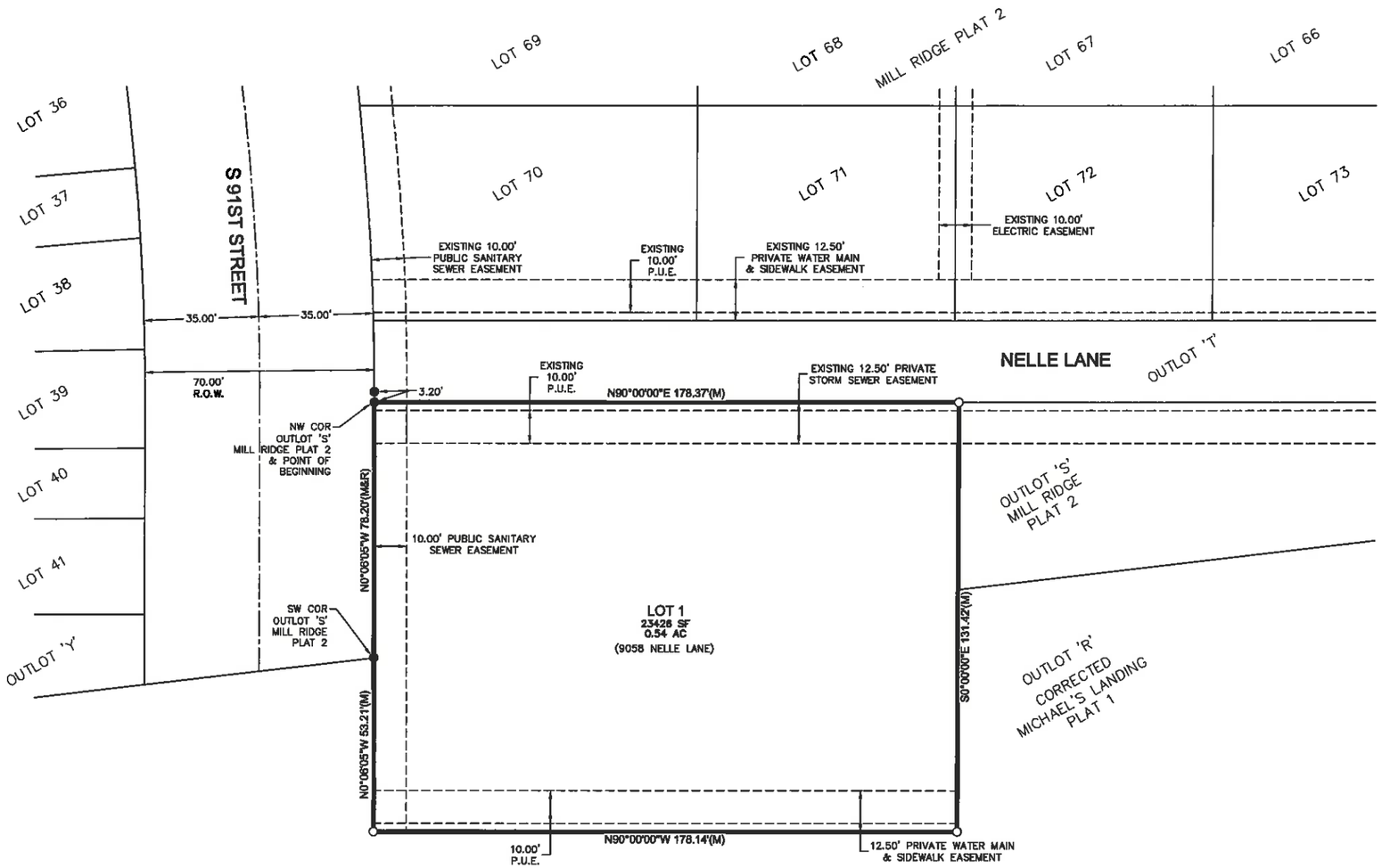
FINAL PLAT

INDEX LEGEND

LOCATION: OUTLOT 'S', MILL RIDGE PLAT 2, WEST DES MOINES
OUTLOT 'R', CORRECTED MICHAEL'S LANDING PLAT 1, WEST DES MOINES

REQUESTOR: MILL RIDGE HOMES LLC
PROPRIETOR: MILL RIDGE HOMES LLC
SURVEYOR: MICHAEL LEE
SURVEYOR COMPANY: CIVIL DESIGN ADVANTAGE

RETURN TO: 3405 SE CROSSROADS DRIVE, SUITE G
GRIMES, IA. 50111
PH: 515-369-4400



ENGINEER/SURVEYOR:

CIVIL DESIGN ADVANTAGE
3405 SE CROSSROADS DR, SUITE G
GRIMES, IOWA 50111

ZONING:

TAILYN'S REACH P.U.D
MEDIUM DENSITY (PARCEL G)

BULK REGULATIONS:

BUILDING SETBACKS:
FRONT: 30'
REAR: 35'
SIDE: 30'

ACCESSORY SETBACKS:
FRONT: 30'
REAR: 10'
SIDE: 10'

PLAT DESCRIPTION:

A PART OF OUTLOT 'R', CORRECTED MICHAEL'S LANDING PLAT 1, AN OFFICIAL PLAT AND A PART OF OUTLOT 'S', MILL RIDGE PLAT 2, AN OFFICIAL PLAT, ALL BEING IN THE CITY OF WEST DES MOINES, DALLAS COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID OUTLOT 'S'; THENCE NORTH 90°00'00" EAST ALONG THE NORTH LINE OF SAID OUTLOT 'S', 178.37 FEET; THENCE SOUTH 00°00'00" EAST, 131.42 FEET; THENCE NORTH 90°00'00" WEST, 178.14 FEET; THENCE NORTH 00°06'05" WEST, 53.21 FEET TO THE SOUTHWEST CORNER OF SAID OUTLOT 'S'; THENCE NORTH 00°06'50" WEST, ALONG THE WEST LINE OF SAID OUTLOT 'S', 78.20 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.54 ACRES (23,426 SQUARE FEET). THE PROPERTY IS SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

OWNER/DEVELOPER:

MILL RIDGE HOMES, LLC
6900 WESTOWN PARKWAY
WEST DES MOINES, IA 50266

NOTE

- INDIVIDUAL PROPERTY OWNERS MAY BE RESPONSIBLE FOR THE CONSTRUCTION OF SIDEWALKS ON THEIR PROPERTY. PRIOR TO CONSTRUCTION OF ANY SIDEWALKS REFER TO THE PROJECT CONSTRUCTION DRAWINGS AND CONFIRM WITH CITY THE LOCATION, WIDTH AND ELEVATION OF SIDEWALKS.
- ANY ELEVATIONS SHOWN ON THE FINAL PLAT WERE PROVIDED BY PROJECT ENGINEER AND ARE NOT CERTIFIED BY THIS SURVEYOR.
- ANY SET MONUMENTATION SHOWN ON THIS PLAT WILL BE COMPLETED WITHIN ONE YEAR FROM THE DATE THIS PLAT WAS RECORDED.
- ALL BEARINGS ARE BASED ON AN ASSUMED MERIDIAN FOR COMPUTATION PURPOSES.
- ERROR OF CLOSURE FOR THIS FINAL PLAT IS WITHIN ALLOWABLE LIMITS.

LEGEND:

	FOUND	SET
SECTION CORNER AS NOTED	▲	△
1/2" REBAR, YELLOW CAP #16747 (UNLESS OTHERWISE NOTED)	●	○
PLATTED BEARING & DISTANCE	P	
MEASURED BEARING & DISTANCE	M	
RECORDED BEARING & DISTANCE	R	
DEEDED BEARING & DISTANCE	D	
MINIMUM PROTECTION ELEVATION	MPE	
PUBLIC UTILITY EASEMENT	P.U.E.	
CENTERLINE		
SECTION LINE		
EASEMENT LINE		

N

SCALE 1"=20'
0 10 20

LICENSED PROFESSIONAL LAND SURVEYOR
MICHAEL D. LEE
16747
IOWA

I HEREBY CERTIFY THAT THIS LAND SURVEYING DOCUMENT WAS PREPARED AND THE RELATED SURVEY WORK WAS PERFORMED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL LAND SURVEYOR UNDER THE LAWS OF THE STATE OF IOWA.

PRELIMINARY NOT FOR CONSTRUCTION

MICHAEL D. LEE PLS DATE

MY LICENSE RENEWAL DATE IS DECEMBER 31, 2018
PAGES OR SHEETS COVERED BY THIS SEAL:
THIS SHEET

REVISIONS	DATE
REVISED	6/13/17

3405 S.E. CROSSROADS DRIVE, SUITE G
GRIMES, IOWA 50111
PHONE: (515) 369-4400 FAX: (515) 369-4410

ENGINEER: TECH:

CIVIL DESIGN ADVANTAGE

MILL RIDGE PLAT 3
FINAL PLAT
WEST DES MOINES, IOWA

1/1
1705.240

FILE: H:\2017\1705240\DWG\1705240-FINAL PLAT.DWG
FILE DATE: 6/13/17 DATE PLOTTED: 6/13/2017 2:17 PM

Prepared by: J. B. Munford, City of West Des Moines Development Services, P.O. Box 65320, West Des Moines, IA 50265-0320, 515-222-3620
When Recorded, Return to: City Clerk, City of West Des Moines, P. O. Box 65320, West Des Moines, IA 50265-0320

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, ACCEPTING SURETY IN LIEU OF INSTALLATION OF PUBLIC IMPROVEMENTS, APPROVING AND ACCEPTING AN EASEMENT, AND APPROVING AND RELEASING THE FINAL PLAT MILL RIDGE PLAT 3 (FP-003505-2017) FOR THE PURPOSE OF SUBDIVIDING PROPERTY INTO 1 LOT FOR A COMMUNITY CLUBHOUSE AND POOL

WHEREAS, pursuant to the provisions of Title 10, Subdivision Regulations and Title 9, Zoning Chapter 1 et seq, of the West Des Moines Municipal Code, Mill Ridge Homes LLC, has requested approval for a Final Plat (FP-003505-2017) for approximately 0.54 acres located at the southeast corner of S. 91st Street and Nelle Lane. The applicant proposes to subdivide the property into 1 lot for construction of a community clubhouse and pool on that property legally described as:

Legal Description

A PART OF OUTLOT 'R', CORRECTED MICHAEL'S LANDING PLAT 1, AN OFFICIAL PLAT AND A PART OF OUTLOT 'S', MILL RIDGE PLAT 2, AN OFFICIAL PLAT, ALL BEING IN THE CITY OF WEST DES MOINES, DALLAS COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID OUTLOT 'S'; THENCE NORTH 90°00'00" EAST ALONG THE NORTH LINE OF SAID OUTLOT 'S', 178.37 FEET; THENCE SOUTH 00°00'00" EAST, 131.42 FEET; THENCE NORTH 90°00'00" WEST, 178.14 FEET; THENCE NORTH 00°06'05" WEST, 53.21 FEET TO THE SOUTHWEST CORNER OF SAID OUTLOT 'S'; THENCE NORTH 00°06'50" WEST, ALONG THE WEST LINE OF SAID OUTLOT 'S', 78.20 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.54 ACRES (23,426 SQUARE FEET). THE PROPERTY IS SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

WHEREAS, studies and investigations were made, and staff reports and recommendations were submitted which is made a part of this record and herein incorporated by reference;

WHEREAS, the West Des Moines Plan and Zoning Commission has reviewed the Preliminary Plat for Mill Ridge and recommended approval on March 14, 2016;

WHEREAS, the Final Plat that was submitted for review was determined to be generally consistent with the Preliminary Plat for Mill Ridge that was reviewed and approved by the City Council on March 21, 2016;

WHEREAS, on July 24, 2017, this City Council held a duly-noticed meeting to consider the application for Mill Ridge Plat 3 Final Plat (FP-003505-2017);

WHEREAS, the Final Plat that was submitted for review was determined to be generally consistent with the Preliminary Plat for Mill Ridge that was reviewed and approved by the City Council on March 21, 2016;

WHEREAS, on July 24, 2017, this City Council held a duly-noticed meeting to consider the application for Mill Ridge Plat 3 Final Plat (FP-003505-2017);

WHEREAS, the City Council accepts surety in lieu of public improvements related to the S. 91st street;

WHEREAS, the City Council accepts a sanitary sewer easement:

WHEREAS, the City Council assigns the following addresses:

Mill Ridge Plat 3, Lot 1 9058 Nelle Lane

WHEREAS, Mill Ridge Plat 3 is zoned Tallyn's Reach Planned Unit Development (PUD) and meets all requirements of the City's Zoning Code.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST DES MOINES DOES RESOLVE AS FOLLOWS:

SECTION 1. The findings of consistency with the Comprehensive Plan as stated in the staff report, or as amended orally at the City Council hearing, are adopted.

SECTION 2. Final Plat, Mill Ridge Plat 3 (FP-003505-2017) is approved, subject to compliance with all the conditions in the staff report, dated July 24, 2017, including conditions added at the meeting, if any, and attached hereto as Exhibit "A". Violation of any such conditions shall be grounds for revocation of the entitlement, as well as any other remedy which is available to the City.

SECTION 3. This resolution does release Mill Ridge Plat 3 (FP-003505-2017) Final Plat for recordation upon fulfillment of related conditions of approval. The City Council of West Des Moines, Iowa directs the City Clerk to release said plat for recordation in accordance with said City Council approval of the final plat on July 24, 2017 and Roll Call No. _____.

CERTIFICATE

I, Ryan T. Jacobson, City Clerk for said City, hereby certify that at a meeting of the City Council of said City of West Des Moines, held on July 24, 2017, among other proceedings, Roll Call No. _____ approved said plat on July 24, 2017, and released said Final Plat for recordation.

_____
Ryan T. Jacobson
City Clerk

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of July, 2017.

_____
Steven K. Gaer, Mayor

ATTEST:

_____
Ryan T. Jacobson
City Clerk

Exhibit A
Conditions of Approval

1. Before any building permits will be issued for the clubhouse building to be located within Mill Ridge Plat 3, the Final Plat must be recorded with Dallas County.
2. An approved water supply, as defined in the City of West Des Moines Fire Code, must be installed and pass inspection prior to above ground or combustible construction.
3. City Council approve deferment of the construction of the south 70 feet of S. 91st street until such time that development of property directly south occur.

Prepared by: J.B. Munford Development Services, PO Box 65320, West Des Moines, IA 50265-0320, 515-222-3620
When Recorded, Return to: City Clerk, City of West Des Moines, PO Box 65320, West Des Moines, IA 50265-0320

SANITARY SEWER EASEMENT(S)

KNOW TO ALL MEN BY THESE PRESENTS:

1. Grant of Easement(s).

The undersigned, Mill Ridge Homes LLC, (hereinafter referred to as the "Grantor(s)"), owner(s) and/or developer(s) of Mill Ridge Plat 3, an official plat in and forming a part of the City of West Des Moines, Dallas County, Iowa, in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby sell, grant, and convey to the City of West Des Moines, Iowa, a municipal Corporation (hereinafter referred to as "the City"), a permanent and perpetual easement (hereinafter referred to as "Sanitary Sewer Easement" or "Easement(s)") and right-of-way upon, over, under, through and across the real property legally described as:

THE WEST 10.00 FEET OF LOT 1, MILL RIDGE PLAT 3, AN OFFICIAL PLAT IN THE CITY OF WEST DES MOINES, DALLAS COUNTY, IOWA.

2. Use and Purpose of Easement(s).

This Easement shall be granted for the purpose of locating sanitary sewer(s) (hereinafter referred to as "Sewer(s)") and to permit and allow the city to enter at any time upon, over, under, through, and across into said Easement(s) herein described to use as much of the surface and sub-surface thereof to construct, replace, locate, rebuild, enlarge, reconstruct, patrol, repair (including the right to place and build additional Sewer(s) therein or to connect and/or join Sewer(s) and appurtenances thereto) and to forever maintain Sewer(s) whenever necessary within the Easement(s) granted herein. No structure, obstruction, or building of any kind whatsoever shall be placed upon property that is the subject of this Easement without the express written consent of the City.

3. Maintenance.

After the initial construction of the Sewer(s), and acceptance by the City, the City agrees, as part of the reconstruction, maintenance and patrolling of the Sewer(s), to restore and replace the Easement area(s) to substantially the same condition as prior to the time of entry or as agreed upon by the City and the Grantor(s), except the City shall not be required to replace landscaping, trees, shrubs, bushes, landscape elements, structures, or underground water systems nor shall the City be required to restore the Easement area by reason of settlement, depression, or any unknown conditions which arise subsequent to the restoration and/or replacing of the easement area; any subsequent restoration by reason of settlement, depression or any unknown conditions shall be the sole responsibility of the Grantor(s) at the Grantor(s)' sole expense.

4. Hold Harmless.

The Grantor(s) agrees to indemnify and hold harmless the City, its elected officials, employees, officers, agents, representatives, contractors, and attorneys from and against any and all claims or demands for liability, loss, damage, costs, expenses, or attorney's fees of any kind for actions or omissions of the Grantor(s) arising out of or in connection with any undertaking arising out of or otherwise related to this Easement.

5. Running of Benefits and Burdens.

The terms and conditions of this Easement are binding upon the Grantor including, but not limited to, future owners, developers, lessees or occupants. All provisions of this instrument, including benefits and burdens, run with the land and are binding upon and inure to the heirs, assigns, successors, tenants and personal representatives of the parties hereto.

6. Jurisdiction and Venue.

The City and the Grantor(s) agree the District Court of the State of Iowa shall have exclusive jurisdiction over the subject matter and enforcement of the terms and conditions of this Easement and said parties consent to the jurisdiction of the person being in Dallas County, Iowa.

7. Words and Phrases.

Words and phrases shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender, according to context.

8. Parties.

The term "City" as used herein shall refer to the City of West Des Moines, Iowa, its elected officials, agents, employees, officers, and contractors. The term "Grantor(s)" shall refer to Mill Ridge Plat 3, their heirs, assigns, successors-in-interest, or lessees, if any.

9. Attorney's Fees.

Either party may enforce this instrument by appropriate action, and should they prevail in such litigation they shall recover as part of their costs the reasonable attorney's fees incurred in such litigation.

10. Integration.

This Agreement shall constitute the entire Agreement between the parties and no amendments or additions to this Agreement shall be binding unless in writing and signed by both parties.

11. Paragraph Headings.

The paragraph headings in this Agreement are included solely for convenience and shall not affect or be used in connection with, the interpretation of this Agreement.

Dated this 13 day of July, 2017.

MILL RIDGE HOMES, LLC Grantor
By: Hubbell Realty Company, Managing Member

By: _____
Joseph F. Pietruszynski, Vice President

By: _____
B.J. Miller, Assistant Secretary

STATE OF IOWA)
) **SS.**
COUNTY OF DALLAS)

On this 13 day of July 2017, before me the undersigned, a Notary Public in and for the State of Iowa, personally appeared Joseph F. Pietruszynski and B.J. Miller, to me personally known, who, being by me duly sworn, did say that they are the Vice President and Assistant Secretary, respectively, of Hubbell Realty Company, the Managing Member of Mill Ridge Homes, LLC, an Iowa limited liability company.

Falon Michalski
Notary Public in and for the State of Iowa

FALON MICHALSKI
Commission Number 795003
My Commission Expires
March 9, 2019

CITY OF WEST DES MOINES, IOWA

Steven K. Gaer, Mayor

Attest:

Ryan T. Jacobson, CMC, MPA
City Clerk

STATE OF IOWA)
)**SS**
COUNTY OF POLK)

On this _____ day of _____, 2017, before me, the undersigned, a Notary Public in and for said County and State personally appeared Steven K. Gaer and Ryan T. Jacobson, to me personally known, who being by me duly sworn, did say that they are the Mayor and City Clerk of the City of West Des Moines, Iowa, a municipal corporation, executing the within and foregoing instrument and acknowledged that they executed the same as their voluntary act and deed of the City of West Des Moines, by it and by them voluntarily executed.

Notary Public in and for the State of Iowa