

RESOLUTION 1939

A RESOLUTION WAVING THE RIGHT TO A FORMAL REVIEW OF AN EXTRA-TERRITORIAL JURISDICTION SUBDIVISION WITHIN TWO MILES OF THE CORPORATE LIMITS OF WEST BRANCH WITH CONDITIONS – BROOKVIEW RIDGE.

WHEREAS, A Plat located on the premises described as: a parcel of realty lying south of County Road F44 (290th St.), east of Charles Ave., north of Interstate 80, and west of Auditor’s Parcel K, all located within portions of the NW¹/₄, NW¹/₄; N¹/₂ SW¹/₄ NW¹/₄; SE¹/₄ SW¹/₄ NW¹/₄; S¹/₂ SW/14 SW¹/₄ NW¹/₄, and E¹/₂ NW¹/₄, Section 9 T.79N., R.04W., of the Fifth P.M., Cedar County, Iowa, being the same realty as recorded in Book 1425 – Page 49, Cedar County Recorder’s Office; and

WHEREAS, the intent of this application for a Residential Subdivision is to accommodate a 9-lot Residential subdivision of which 8-lots are to be platted along the east of Charles Ave.; and

WHEREAS, the City of West Branch is poised to approve a wavier to its right for a formal review with the following conditions:

1. The developer / association agrees to voluntary annex into the City of West Branch in the event the City of West Brach were to ever surround the borders of the Brookview Ridge subdivision; and
2. At which time, the developer / association agree to make the public improvement or bare the expense needed to meet current city public infrastructure standards; and

WHEREAS, this Plat application is considered an extra territorial jurisdiction Subdivision which falls within two miles of the Corporate Limits of West Branch and falls under West Branch Code Chapter 170.23 “The City may, by resolution, waive its right to review any subdivision outside its City limits or waive the requirements of any of its standards or conditions of approval, and if such resolution is made, shall certify the resolution, which shall be recorded with the plat...”; and


WHEREAS, this Plat application is currently undergoing a full former review by the Cedar County, Planning and Zoning Department; and

WHEREAS, it is now necessary to for the City Council to accept and approve this resolution; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of West Branch, Iowa hereby waives it’s right to review the plat located on the premises described as: a parcel of realty lying south of County Road F44 (290th St.), east of Charles Ave., north of Interstate 80, and west of Auditor’s Parcel K, all located within portions of the NW¹/₄, NW¹/₄; N¹/₂ SW¹/₄ NW¹/₄; SE¹/₄ SW¹/₄ NW¹/₄; S¹/₂ SW/14 SW¹/₄ NW¹/₄, and E¹/₂ NW¹/₄, Section 9 T.79N., R.04W., of the Fifth P.M., Cedar County, Iowa, being the same realty as recorded in Book 1425 – Page 49, Cedar County Recorder’s Office; and that the Mayor and City Clerk are hereby authorized and directed to certify this resolution and affix the same to said plat as provided by law.

* * * *

PASSED AND APPROVED this 5th day of October, 2020.



Roger Laughlin, Mayor

ATTEST:



Redmond Jones, City Administrator/Clerk



Book 1553 Page 198-200

Document 2020 3817 Pages 3

Date 11/05/2020 Time 9:52:26AM

Rec Amt \$17.00

chg

MELISSA BAHNSEN, RECORDER
CEDAR COUNTY IOWA

Prepared by: Kevin D. Olson, West Branch City Attorney, P.O. Box 5640, Coralville, Iowa 52241 (319) 248-1700
Return to: City of West Branch, Iowa, 110 N. Poplar Street, West Branch, Iowa 52333; ATTN: City Clerk

MUNICIPAL IMPROVEMENTS AGREEMENT

THIS MUNICIPAL IMPROVEMENTS AGREEMENT is entered into by and between the City of West Branch, Iowa, 110 N. Poplar Street, West Branch, Iowa 52338 (hereafter the "City"); and Barnhart Properties, LLC, an Iowa limited liability company, 412 E. Main Street, West Branch, Iowa 52338 (hereafter the "Subdivider").

WHEREAS, the Subdivider has submitted applications for the approval of a plat within unincorporated Cedar County, said plat being referred to as Brookview Ridge, Cedar County, Iowa (the "Subdivision"); and

WHEREAS, said proposed Subdivision, although presently located outside the corporate limits of the City of West Branch, is located within the two-mile extraterritorial jurisdiction of the City of West Branch; and

WHEREAS, as such, the plat requires approval from both the Cedar County Board of Supervisors and the West Branch City Council or a waiver of review by the West Branch City Council; and

WHEREAS, said Subdivision, while in compliance with County subdivision regulations, will not contain standard municipal improvements that would be required within the City of West Branch, which would include, but not be limited to: (a) concrete paved streets with curb and gutter; (b) sanitary sewer mains; (c) water mains; (d) storm sewer mains and drainage systems; (e) sidewalks; (f) street lighting and other improvements required by the City Code in place at the time of the annexation (the "Municipal Improvements"); and

WHEREAS, provision for the aforementioned Municipal Improvements is being held in abeyance because the Subdivision will not be currently located within the corporate limits of the City of West Branch; and

WHEREAS, if the Subdivision is annexed into the City of West Branch, the City Council may require the installation of the Municipal Improvements within said Subdivision; and

WHEREAS, the Subdivider expressly acknowledges and agrees that all or a portion of the Municipal Improvements may be constructed by the City being financed by special assessments..

NOW, THEREFORE, the parties expressly agree to the following:

1. That upon annexation of the Subdivision into the City of West Branch, the City Council of the City of West Branch may proceed with the construction of the Municipal Improvements to be funded in full, or in part, via special assessment.
2. That the owner of any lot within the Subdivision shall pay the connection fees for connection of their lot to the City water and sewer utilities in place at the time of the connection to the City water and/or sanitary sewer utility, if any.
3. Should the City choose to proceed with the construction of the Municipal Improvements to be funded in full, or in part, via special assessment, the Subdivider does irrevocably waive all requirements of notice, valuation or benefit limitations as set forth in Chapter 384, which shall be binding upon all owners of property within the Subdivision and run with the sale of each lot in the Subdivision
4. That by executing this Agreement, the Subdivider expressly agrees that each owner of the property in the Subdivision shall execute an application for Voluntary Annexation into the City upon ninety (90) days written notice to each property owner by the City. This provision will run with the sale of each lot in the Subdivision.
5. That upon annexation of the Subdivision into the City of West Branch, the Developer, its assignee or successor in interest, shall dedicate county road right-of-way easements to the City of West Branch.
6. This Agreement shall inure to the benefit of the parties and shall run with the land.

Dated this 21 day of October, 2020.

SUBDIVIDER:

Barnhart Properties, LLC

By: Bruce Barnhart
Bruce Barnhart, Manager

By: Shelley Barnhart
Shelley Barnhart, Manager

CITY:

By: Roger Laughlin
Roger Laughlin, Mayor

ATTEST:

By: Redmond Jones II
Redmond Jones II, City Clerk

STATE OF IOWA, COUNTY OF CEDAR, ss:

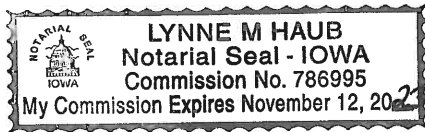
This instrument was acknowledged before me on this 2nd day of November, 2020, by Roger Laughlin and Redmond Jones II, as Mayor and City Clerk respectively of the City of West Branch, Iowa.



Leslie Brick
Notary Public

STATE OF IOWA, COUNTY OF CEDAR, ss:

This instrument was acknowledged before me on this 21st day of October, 2020, by Bruce Barnhart and Shelley Barnhart, as Managers of Barnhart Properties, LLC.



Lynne M. Haub
Notary Public