



Federal Emergency Management Agency

Washington, D.C. 20472

November 12, 2014

PLANNING AND PREVENTION
RECEIVED
NOV 20 2014

MR. RICK YOUNG
ROBIN HOOD ENTERPRISES, LLC
P.O. BOX 1077
WATERLOO, IA 50704

CASE NO.: 14-07-2830A

COMMUNITY: CITY OF WATERLOO, BLACK HAWK
COUNTY, IOWA

COMMUNITY NO.: 190025

WATERLOO, IOWA

DEAR MR. YOUNG:

This is in reference to a request that the Federal Emergency Management Agency (FEMA) determine if the property described in the enclosed document is located within an identified Special Flood Hazard Area, the area that would be inundated by the flood having a 1-percent chance of being equaled or exceeded in any given year (base flood), on the effective National Flood Insurance Program (NFIP) map. Using the information submitted and the effective NFIP map, our determination is shown on the attached Letter of Map Amendment (LOMA) Determination Document. This determination document provides additional information regarding the effective NFIP map, the legal description of the property and our determination.

Additional documents are enclosed which provide information regarding the subject property and LOMAs. Please see the List of Enclosures below to determine which documents are enclosed. Other attachments specific to this request may be included as referenced in the Determination/Comment document. If you have any questions about this letter or any of the enclosures, please contact the FEMA Map Assistance Center toll free at (877) 336-2627 (877-FEMA MAP) or by letter addressed to the Federal Emergency Management Agency, LOMC Clearinghouse, 847 South Pickett Street, Alexandria, VA 22304-4605.

Sincerely,

Luis Rodriguez, P.E., Chief
Engineering Management Branch
Federal Insurance and Mitigation Administration

LIST OF ENCLOSURES:

LOMA DETERMINATION DOCUMENT (REMOVAL)

cc: State/Commonwealth NFIP Coordinator
Community Map Repository
Region
Mr. William Claassen



Federal Emergency Management Agency

Washington, D.C. 20472

LETTER OF MAP AMENDMENT DETERMINATION DOCUMENT (REMOVAL)

COMMUNITY AND MAP PANEL INFORMATION		LEGAL PROPERTY DESCRIPTION
COMMUNITY	CITY OF WATERLOO, BLACK HAWK COUNTY, IOWA	<p>A portion of Section 7, Township 88 North, Range 13 West, 5th Principal Meridian, recorded as File No. 2010-00000023, in Book 1080, Pages 59890, 59891, 59892 and 59893, in the Office of the Recorder, Black Hawk County, Iowa.</p> <p>The portion of property is more particularly described by the following metes and bounds:</p>
	COMMUNITY NO.: 190025	
AFFECTED MAP PANEL	NUMBER: 19013C0283F; 19013C0284F	
	DATE: 7/18/2011; 7/18/2011	
FLOODING SOURCE: PRESCOTTS CREEK		<p>APPROXIMATE LATITUDE & LONGITUDE OF PROPERTY: 42.445, -92.406</p> <p>SOURCE OF LAT & LONG: ARCGIS 10.2 DATUM: NAD 83</p>

DETERMINATION

LOT	BLOCK/ SECTION	SUBDIVISION	STREET	OUTCOME WHAT IS REMOVED FROM THE SFHA	FLOOD ZONE	1% ANNUAL CHANCE FLOOD ELEVATION (NAVD 88)	LOWEST ADJACENT GRADE ELEVATION (NAVD 88)	LOWEST LOT ELEVATION (NAVD 88)
1-11, Tract B	--	Nottingham	--	Portion of Property	X (shaded)	874.7- 875.9 feet	--	875.3- 887.0 feet

Special Flood Hazard Area (SFHA) - The SFHA is an area that would be inundated by the flood having a 1-percent chance of being equaled or exceeded in any given year (base flood).

ADDITIONAL CONSIDERATIONS (Please refer to the appropriate section on Attachment 1 for the additional considerations listed below.)

LEGAL PROPERTY DESCRIPTION
PORTIONS REMAIN IN THE SFHA
STUDY UNDERWAY

This document provides the Federal Emergency Management Agency's determination regarding a request for a Letter of Map Amendment for the property described above. Using the information submitted and the effective National Flood Insurance Program (NFIP) map, we have determined that the described portion(s) of the property(ies) is/are not located in the SFHA, an area inundated by the flood having a 1-percent chance of being equaled or exceeded in any given year (base flood). This document amends the effective NFIP map to remove the subject property from the SFHA located on the effective NFIP map; therefore, the Federal mandatory flood insurance requirement does not apply. However, the lender has the option to continue the flood insurance requirement to protect its financial risk on the loan. A Preferred Risk Policy (PRP) is available for buildings located outside the SFHA. Information about the PRP and how one can apply is enclosed.

This determination is based on the flood data presently available. The enclosed documents provide additional information regarding this determination. If you have any questions about this document, please contact the FEMA Map Assistance Center toll free at (877) 336-2627 (877-FEMA MAP) or by letter addressed to the Federal Emergency Management Agency, LOMC Clearinghouse, 847 South Pickett Street, Alexandria, VA 22304-4605.

Luis Rodriguez, P.E., Chief
Engineering Management Branch
Federal Insurance and Mitigation Administration



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LETTER OF MAP AMENDMENT DETERMINATION DOCUMENT (REMOVAL)

ATTACHMENT 1 (ADDITIONAL CONSIDERATIONS)

LEGAL PROPERTY DESCRIPTION (CONTINUED)

BEGINNING at the Southerly corner of Lot 1; thence N53°19'44"W, 126.14 feet; thence N19°14'48"W, 232.37 feet; thence S89°29'08"W, 482.49 feet; thence S21°35'58"E, 720.99 feet; thence S39°20'38"E, 344.71 feet; thence N88°30'53"E, 279.45 feet; thence N00°44'00"W, 436.86 feet; thence S53°19'44"E, 50.89 feet; thence N36°40'16"E, 120.00 feet; thence N53°19'44"W, 190.00 feet; thence N53°19'44"W, 60.00 feet; thence S36°40'16"W, 15.79 feet to the POINT OF BEGINNING.


PORTIONS OF THE PROPERTY REMAIN IN THE SFHA (This Additional Consideration applies to the preceding 1 Property.)

Portions of this property, but not the subject of the Determination/Comment document, may remain in the Special Flood Hazard Area. Therefore, any future construction or substantial improvement on the property remains subject to Federal, State/Commonwealth, and local regulations for floodplain management.

STUDY UNDERWAY (This Additional Consideration applies to all properties in the LOMA DETERMINATION DOCUMENT (REMOVAL))

This determination is based on the flood data presently available. However, the Federal Emergency Management Agency is currently revising the National Flood Insurance Program (NFIP) map for the community. New flood data could be generated that may affect this property. When the new NFIP map is issued it will supersede this determination. The Federal requirement for the purchase of flood insurance will then be based on the newly revised NFIP map.

This attachment provides additional information regarding this request. If you have any questions about this attachment, please contact the FEMA Map Assistance Center toll free at (877) 336-2627 (877-FEMA MAP) or by letter addressed to the Federal Emergency Management Agency, LOMC Clearinghouse, 847 South Pickett Street, Alexandria, VA 22304-4605.


Luis Rodriguez, P.E., Chief
Engineering Management Branch
Federal Insurance and Mitigation Administration

Nottingham Third Addition – Protection of future owners, Preservation of community, Protection of quality of life and Defense against Profit Driven Developers

14 Oct 2014

Purpose - Ordinance 3196 “Zoning Ordinance” shall be to promote

1. **Health**
2. **Safety**
3. **Morals**
4. **Order**
5. **Convenience**
6. **Prosperity**
7. **General Welfare**
8. **Conserve and Protect the Value of Property (Current & future owners, taxpayers)**
9. **Facilitate the adequate provision of**
 - a. Transportation, water, **sewerage**, schools, parks and other public requirements.
10. **Recognize the conflict of interest of individuals and corporations that seek to gain financially (developers, survey agents of developers, etc.) vs. the stated purpose of Ord 3196 to protect the health, and property value of current families living in the area.**
11. **Conduct ALL business FULLY within the city Zoning Ordinance and legal requirements.**

What is Not the purpose:

1. Be sympathetic to profit driven developers or overlook the ordinances or laws
2. To approve anything that comes before the commission
3. To show prejudices or leniency to corporations, LLC, or individuals, but to rule approve or dismissal based on presented evidence & testimony.
4. Not provide 3rd, 4th, limitless multiple chances for approval
5. To have committee personal active with conflicts of interests
6. Believe developers data & survey inputs w/o question
7. To provide opportunities for companies or individuals to be profitable

Petition to Not approve/ Reject Nottingham Third Addition

- **27 signatures**

What is our purpose here on earth, if not to help each other, protect each other from harm, to care for each other?

God respects private property, free enterprise. He does not condemn private ownership or making money or the profit motive. What He consistently condemns throughout His Word is greed, selfishness, acquiring wealth through dishonesty and lack of full disclosure, unfair exploitation of others, the use of wealth and power and influence to gather more for yourself at the expense of others.

Main Points

1. **Water flooding on proposed lots** *(see pictures on page 4 of this handout)*
 - a. Pictures clearly show flooding on lots #8, #9 and #10 and on Tract "B"
 - b. Protect the future land owners, health, safety, welfare and property value by denying these areas for approval.
2. **Street extension** to parcel "N"
 - a. Future connection to Ranchero Rd, New street to be standard 31" wide
 - b. Parcel owner wants for road to connect to property line & full width
3. **Tract "B"**
 - a. Does not have the ability to connect to a sewer. Should not be approved.
 - b. City ordinance 29 & 30 states any tract has to have ability for sewer before approval.
 - c. Needs language in Deed of Dedication and on face of plat(s) that no development shall occur on Tract B unless a connect is made to Prescott Creek trunk sewer
 - d. Needs language in Deed of Dedication and on face of plat(s) that no development shall occur on Tract B unless it is single family homes on lots of 20,000 sf., consistent with neighborhood.
4. **Sanitary Sewer**
 - a. Existing sanitary sewer is within 100' of property
 - b. City engineer has declined lift stations in Nottingham additions
 - c. Primary purpose of Prescott creek sanitary sewer trunk line was to provide this ability, which cost the city several \$Millions.
 - d. Developer is required by subdivision ordinance to connect to it, it is just of the cost part of doing business
 - e. Not be able to pass the financial burden on to each individual property owner, and require them to have a lift pump in each home.
5. **Borrow Pit (Dirt)** *(see page 5 for pictures)*
 - a. Sole purpose is to reduce cost of road, not as "retention pond"
 - b. Has the volume and depth been clearly defined? No evidence.
 - c. Limited on depth due to ability to drain at 870' elevation
 - d. Has city engineer been given calculations for required volume
 - e. Has he approved it?
 - f. Drawings show this is far into the floodway
 - g. Requires Iowa DNR approval
6. **New land owners maintenance responsibilities**
 - a. City has turned down the offer to own Tract "C", for reason of maintenance costs, developer is dumping it on future owners
 - b. Future land owners would have no expertise on this or what they are buying into or how to inspect or maintain it.
 - c. Undue burden on property owners with potentially significant continual costs of maintenance
 - d. Need clearly defined guidelines of inspection and maintenance for owners to follow.
(Refer to currently used document provided in another Iowa city. Pages 6-8 in this handout)
 - e. Requires City engineer approval before committee's approval of plans

7. Final Plate document

- a. If construction plans has not been reviewed and fully signed off by the City engineer, it needs to be removed from the agenda.

8. Lot sizes

- a. Data in the staff's information is misleading.
- b. States existing Nottingham minimum parcel is 17,250 sf. Land owners with houses minimum size is actually 20,250. And real average is 31,500 sf.
- c. Therefor minimum size lot should be 20,000 or greater and an average of 31,000 sf to maintain the character & property value of the existing owners of proposed addition.

9. Staff Recommendation is Inaccurate in several areas

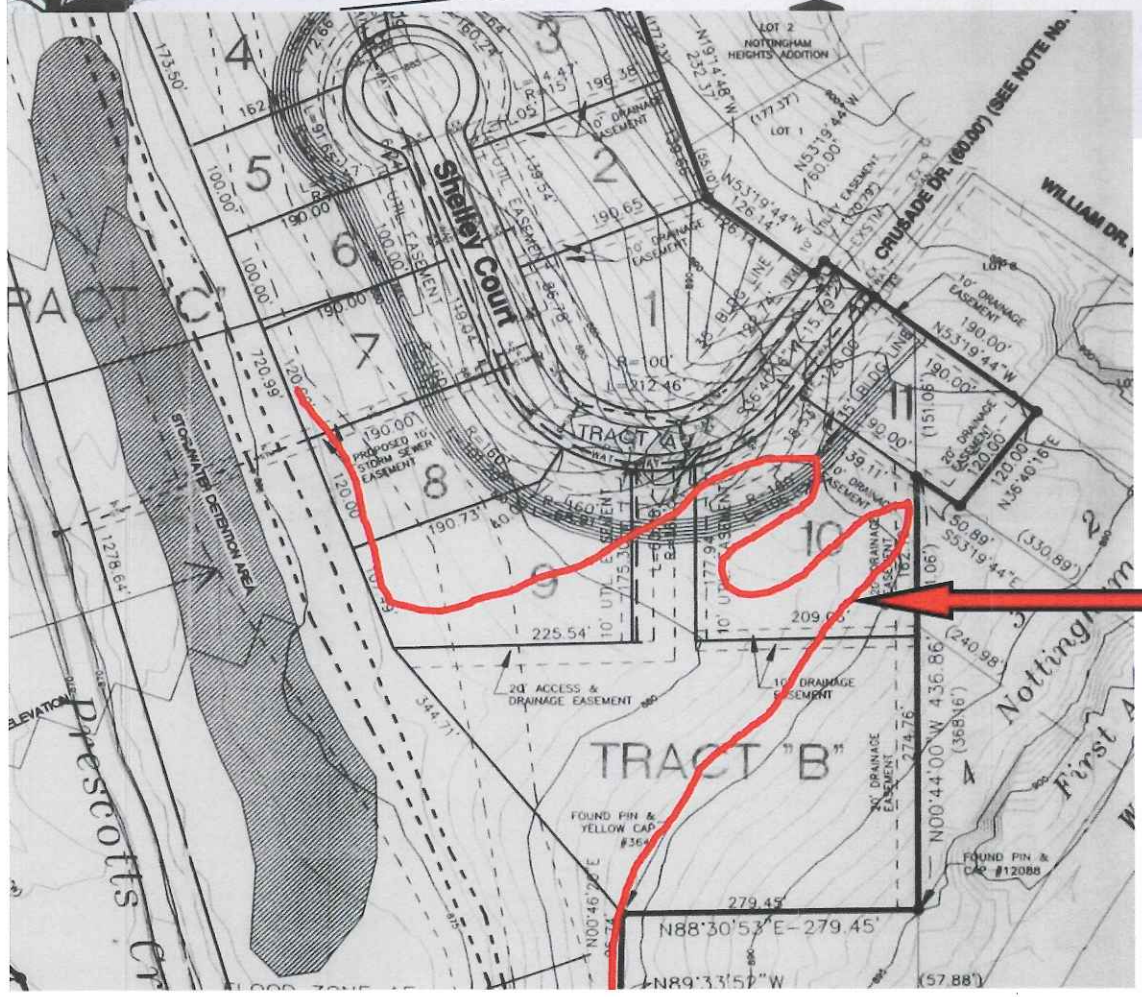
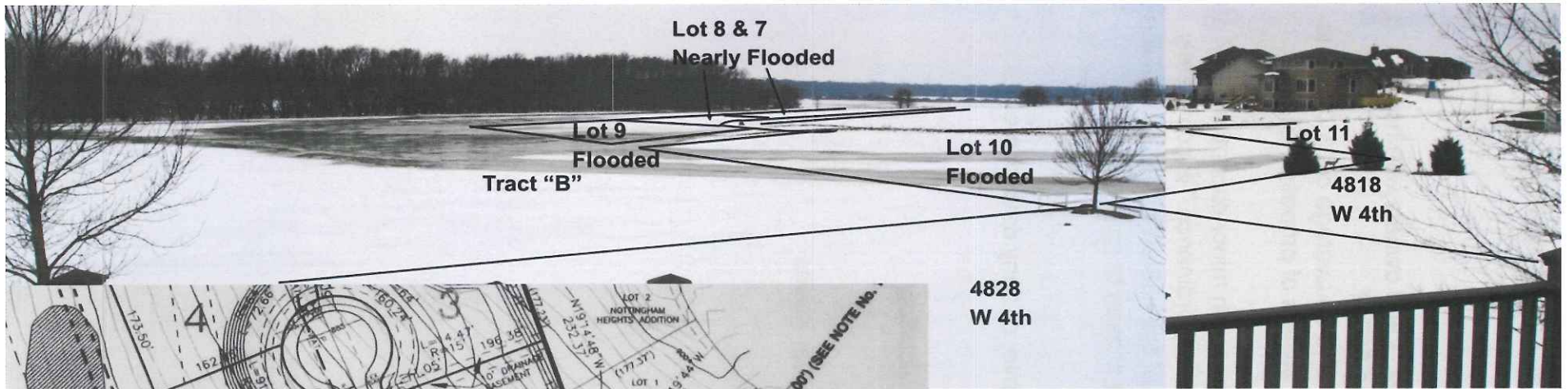
- a. "The plat is in accordance with the Subdivision Ordinance with minor exceptions that do not appear to negatively affect the intent of the Subdivision Ordinance." is completely inaccurate and indicated the staff are either not aware of the entirety of the subdivision and zoning ordinances of the City of Waterloo, or have chosen to ignore certain sections in favor of the developer.

10. 40 Day action limit

- a. Committee has 40 days to approve, conditionally approve, or deny development proposal

11. Legal Issues

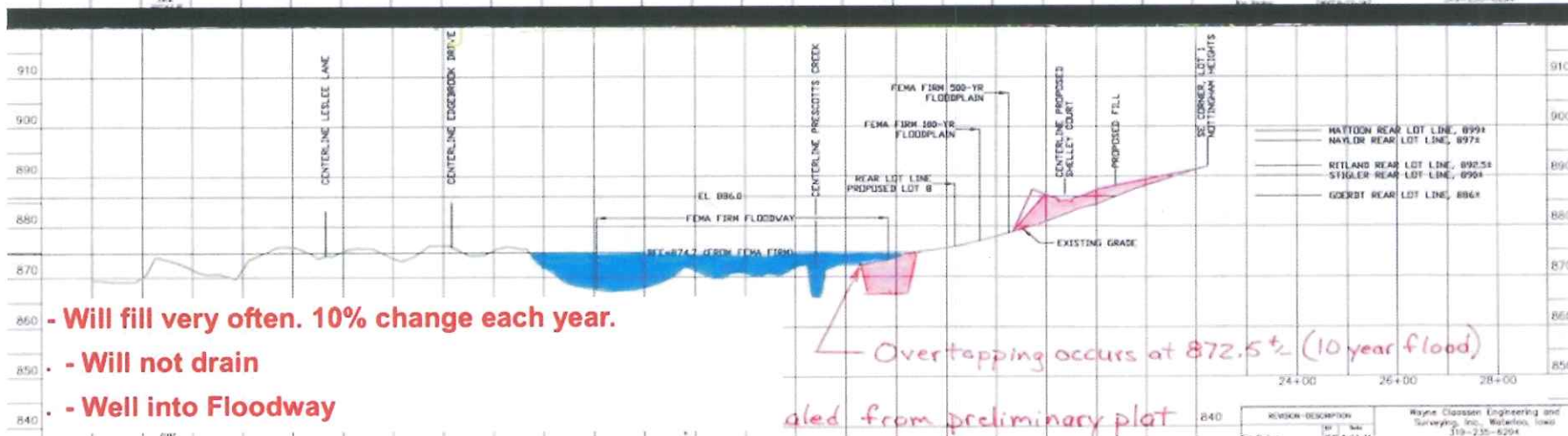
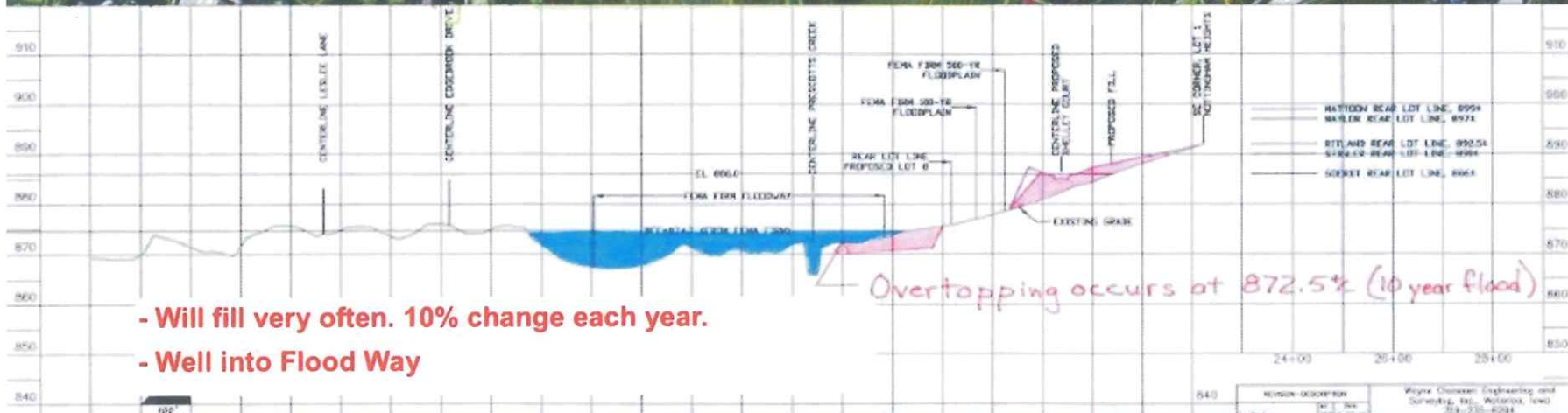
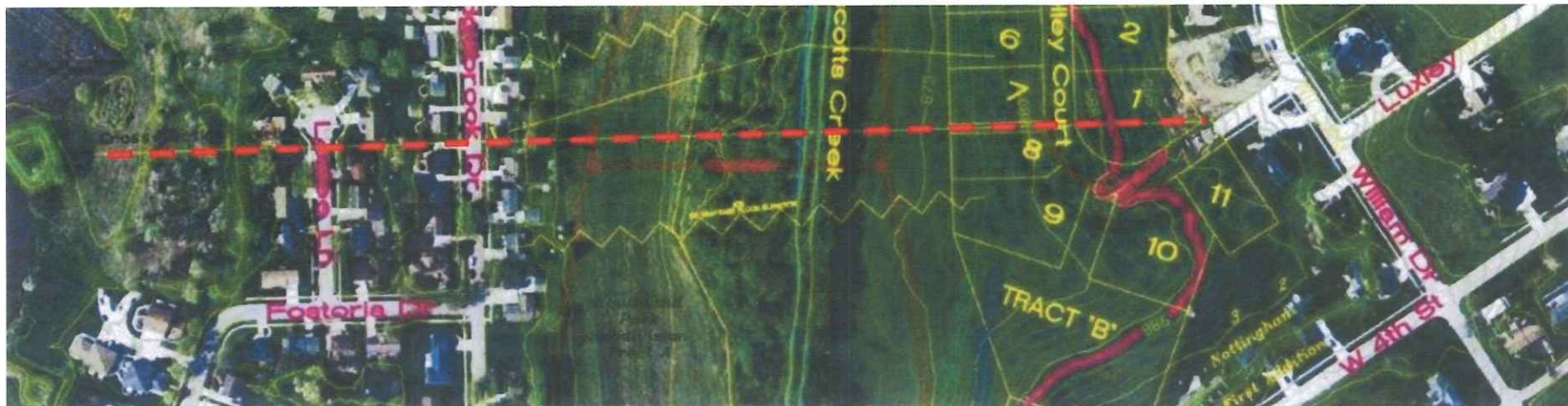
- a. Violation of Waterloo subdivision ordinances is a legal violation
- b. Subject to criminal penalty
- c. No DNR approval
- d. No repeat of Summerland Farms addition with major water issues



**Actual Flooding Pictures
10 March 2013**

**Red Line indicates Area
flooded**

**Facts vs. Theoretical
Estimates**



Example of clearly defined guidelines of inspection and maintenance for owners to follow

Prepared by: Wendell Lupkes, L.S., VJ Engineering, 1501 Technology Pkwy, Suite 100, Waterloo, IA 50613 (319)266-5829

MAINTENANCE AND REPAIR AGREEMENT AND PERMANENT EASEMENT

This Agreement is made and entered into by and between the Nottingham Third Addition Homeowners' Association, (hereinafter "Owner") and the City of Waterloo, Iowa (hereinafter "City"):

WHEREAS, Owner desires to construct a storm water management facility on Tract "C" of Nottingham Third Addition, Waterloo, Black Hawk County, Iowa, which will require approval of the City, and

WHEREAS, a Maintenance and Repair Agreement is required pursuant to Section 27.408 of the City's Code of Ordinances, and

WHEREAS, a permanent easement over said Tract C is required, and

WHEREAS, the parties desire to set forth the terms and provisions of said Agreement as required by said Ordinance.

NOW, THEREFORE, IT IS AGREED by and between the parties as follows:

1. Owner will construct a storm water management facility on its property, which is legally described as follows:

Tract "B", Nottingham Third Addition, Waterloo, Black Hawk County, Iowa.

2. Attached hereto as Exhibit A is the Detention Basin Operation and Maintenance Plan for this project.

3. Attached hereto as Exhibit B is the Maintenance Schedule for the facility.

4. Robin Hood Enterprises, LLC, as owner of Tract "C" of the Real Estate, for itself and its successors and assigns, hereby grants to the future owners of all lots which comprise the real estate legally described on Exhibit C attached hereto (the "Benefitted Property"), and to the City of Waterloo, Iowa (the "City"), as owners of the streets to be dedicated to the City, and the stormwater facilities over which the City is granted perpetual easements, all as described in the Deed of Dedication of the real estate described on Exhibit C, a permanent easement over, upon, under and across Tract "C" of the Real Estate, for the collection and detention of stormwater from all of the lots, streets and other parts of the real estate describe on Exhibit C. This easement shall be perpetual in nature, shall be a covenant which runs with the land which comprises the Benefitted Property and with Tract "B" of the Real Estate, shall inure to the benefit of the future owners of all lots which comprise the Benefitted Property and to the City, and shall be binding upon Robin Hood Enterprises, LLC, and its grantees, transferees, successors and assigns, including without limitation, Nottingham Third Addition

Homeowners' Association as potential future owner of said Tract "C". Robin Hood Enterprises, LLC may add additional real estate to the Benefitted Property upon written consent of the City, in which case the perpetual easement granted herein shall thereafter inure to the benefit of the future owners of lots which comprise the additional real estate, and to the City with respect to streets dedicated to and easements granted to the City with respect to such additional real estate.

5. The City shall have a permanent access easement for purposes of inspection of the facility as designated in the legal description set forth above.

6. The Owner shall be responsible for the operation and maintenance of the facility, and shall make records of the installation, maintenance and repairs, and shall retain said records for at least twenty-five years or until the facility has been reconstructed. These records shall be made available to the City during any City inspection, and shall be submitted to the City at other reasonable times upon request.

7. If the Owner or any other responsible party fails or refuses to meet maintenance or repair requirements, and if the facility is not a danger to public safety or public health, the City shall provide the Owner or responsible party with reasonable notice to correct the violation in a timely manner. In the event that the facility becomes a danger to public safety or public health, the City shall notify the Owner or responsible party in writing that upon receipt of the notice, the responsible party shall have two days or such additional time as circumstances may require to maintain and/or repair the facility. If the violations or non-compliance have not been corrected by the Owner or responsible party in a timely manner, the City may assess, jointly and severally, the cost of the work shall be a lien on the facility, or shall be assessed to the benefitted property as a lien to be collected in the same manner as property taxes.

8. Attached hereto as Exhibit D are forms to be utilized with regard to inspection/maintenance of the facility.

9. In consideration of approval by the City of the foregoing agreement and attached Exhibits, Owner accepts the responsibilities set forth herein and agrees that the same shall be binding upon its grantees, transferees, successors and assigns.

IN WITNESS WHEREOF, the parties have hereinto subscribed their names to this agreement.

Addition Homeowners' Association

By _____

STATE OF _____)

COUNTY OF _____)

This instrument was acknowledged before me on the ____ day of _____, 2014

by _____, as _____ of the

Nottingham Third Addition Homeowners' Association.

Notary Public in and for the State of Iowa

City of Waterloo, Iowa

By _____
Buck Clark, Mayor

STATE OF IOWA)

COUNTY OF BLACK HAWK)

This instrument was acknowledged before me on the ____ day of _____, 2014

by Buck Clark, Mayor of the City of Waterloo, Iowa.

Notary Public in and for the State of Iowa



CITY OF WATERLOO, IOWA

COMMUNITY PLANNING AND DEVELOPMENT

715 Mulberry Street • Waterloo, IA 50703 • (319) 291-4366 Fax (319) 291-4262
NOEL C. ANDERSON, *Community Planning & Development Director*

Responses to Opposition Letter and Petition for Nottingham Third Addition

Page one of the submitted documentation recites the Purpose of the Zoning Ordinance as adopted by Ordinance 3196, and indicates what is not the purpose. It should be noted that Ordinance 3196 was adopted on 2/22/82 as an amendment to Ordinance No. 2479, the then effective Zoning Ordinance of the City of Waterloo. The amendment added the purpose section to the Zoning Ordinance. The City of Waterloo Zoning Ordinance No. 2479 was repealed in its entirety upon the adoption of a new Zoning Ordinance No. 5079 on 10/17/11, although the new Zoning Ordinance also has the purpose section. The submitted documentation does not recite all provisions listed in the purpose section. As an example, the purpose to “encourage the most appropriate use of land” was omitted. The last two items (No. 10 and 11) of the submitted documentation that refer to conflict of interest and business conduct are not wording from the purpose section.

Also, it should be noted that the request is for the approval of the Preliminary and Final Plat of Nottingham Third Addition, a proposed subdivision. Subdivision of land is regulated by the City of Waterloo Subdivision Ordinance No. 2997. The request does not involve a change in Zoning, and the site has been properly zoned for the proposed use (a residential subdivision) since the rezone of the property from “A-1” Agricultural District to “R-1” One and Two Family Residence District with adoption of Ordinance 4720 on 9/15/04. It should be noted that the same rezone on 9/15/04 was what allowed for the development of the opposition’s lots. At the time of that rezone, the developer provided a proposed conceptual full build-out site plan which shows lots in the area proposed to be platted. The City of Waterloo Subdivision Ordinance No. 2997 also has a purpose section that is similar to the Zoning Ordinance. The opposition letter does not indicate how the request is not in compliance with any of the provisions of the purpose section (of either Ordinance).

Page two and three of the submitted documentation list 11 “main points”. Responses to these points are as follows:

1. Water flooding on proposed lots – A picture was provided showing a snow melt/rain flood event and has existing and proposed property lines approximately drawn onto the picture. It is indicated that areas should not be approved to be part of the plat because they have/will flood. Where homes would be located on the proposed lots are not within a Special Flood Hazard Area as indicated by the Federal Insurance Administration’s Flood Insurance Rate Map adopted July 18, 2011. The areas in question are around 10’ higher than the 100-year base flood elevation indicated on the flood maps, and over 20’ higher than low lying land on the west side of Prescott’s Creek near the adjoining Southland Park Subdivision. Any flooding in the area was caused by local drainage runoff from the existing developed areas due to a heavy rain or snow melt event. Localized flooding from heavy rain or snow melt events are common throughout the City and do not indicate that an area should be classified as a Special Flood Hazard Area or be restricted for development. The applicant has indicated that if the plat is approved the storm sewer from the existing subdivision that currently outlets into the area of concern in the open field behind the existing lots would be extended all the way to Prescott’s Creek, which will help address this situation depicted in the picture. It is often assumed that undeveloped land drains

better than developed land; however the development of land with stormwater management controls can better control how drainage is managed and can actually improve overall drainage of an area.

2. Street extension to parcel “N” – It is indicated that the owner of parcel “N” wants the road to connect to the property line and it is indicated that the road should be a standard 31’ wide. The road is proposed to be 28’ wide, which does meet minimum City requirements. It was previously indicated that the now owner of parcel “N” did **not** want the road to be extended through this area which is why the owner purchased parcel “N” from the developer and necessitated a permanent cul-de-sac for the proposed subdivision. Based on indication that the owner of parcel “N” now does want the connection, the developer has changed the proposed preliminary and final plat to show the right-of-way being extended to the northerly property line of the proposed plat for a future extension of the road between the cul-de-sac and the north property line.
3. Tract “B” – It is indicated that tract “B” does not have the ability to connect to sewer other than if a connection is made to the Prescott’s Creek trunk sewer to the west. The applicant and applicant’s engineer have indicated that tract “B” would be able to be served by existing sewer in the subdivision, possibly by gravity sewer, but alternatively it could be served by the existing sewer utilizing a grinder pump, which utilization of a grinder pump system is not prohibited by the City of Waterloo, and other homes in the area utilize grinder pump systems, so it would not be uncommon if a grinder pump were utilized.
4. Sanitary Sewer – This appears to be a restate of the issue identified in #3. See response in #3 above. The overall layout and design of the subdivision is a continuation of the existing subdivisions utilizing the existing sewer line that was designed and intended to serve the entire area, with only one Tract that may potentially need to utilize a grinder pump system, which is allowed by Ordinance and not uncommon to the community or area.
5. Borrow Pit (Dirt) – It is indicated that the sole purpose is to reduce cost of road, not as “retention pond”. Fill material taken for the detention/retention pond will be used to elevate the grade of the proposed road and lots, however it is **not** the sole purpose, as inclusion of a detention/retention facility is mandated by the Stormwater regulations of the City of Waterloo contained within Title 8, Chapter 4, Stormwater Management Program of the City of Waterloo Code of Ordinances. It is questioned if the volume and depth have been clearly defined. This detail will be provided when the detailed construction plans are submitted, which is not required to be submitted prior to plat approval and it is typical and standard practice that the construction plans are not submitted until after approval of a subdivision. It is indicated that the drawings show that the detention/retention facility will be located “far into the floodway”. The facility will extend into the floodway, and is not prohibited from doing so. It is indicated that this facility requires Iowa DNR approval. I had indicated that IDNR approval was not required and have confirmed that with the IDNR. Please find attached an e-mail from Bill Cappuccio with the IDNR indicating that no additional approvals for the creation of the retention/detention pond are required and noting that they have no objections to the City of Waterloo issuing a floodplain development permit. In a phone conversation with Mr. Cappuccio he noted that from the IDNR’s perspective, it would not matter what the purpose of an excavation was (detention/retention facility, borrow pit, commercial mining and extraction, etc.), as their review of an excavation is limited to ensuring that fill material does not get placed within a

floodway and that an excavated area will not cause an adjoining channel to divert into the excavated area.

6. New land owners maintenance responsibilities – It is indicated that the City has turned down an offer to own tract “C”. This is incorrect, the City was never offered to own tract “C” where the detention/retention facility would be located, as maintenance of such facilities are the requirement of the owner of the property that the facility serves, which is initially the developer and later the owners of the lots, typically through a homeowners association. All new subdivision are mandated to provide such facilities, and this is not an undue burden on the owners. Purchase of a lot in the subdivision is voluntary, so if an individual feels that the requirement to maintain such a facility is an undue burden, then they shouldn’t purchase a lot in such a subdivision. However, given that the facilities are mandated to meet Federal EPA stormwater management requirements under the Clean Water Act, for the City of Waterloo to grow and see new residential subdivisions, homeowner maintenance of such facilities will have to be accepted. It is indicated that there should be clearly defined guidelines of inspection and maintenance for the owners to follow and the City engineer to approve. Past practice has been to ensure the wording is provided in the deed of dedication of who (typically a homeowners association) owns and is responsible to maintain. We have not required further details on how it is to be maintained or inspected.
7. Final Plat document – It is indicated that if construction plans have not been reviewed and fully signed off by the City Engineer, then the plat should be removed from the agenda. This is incorrect, as construction plans are not required nor have they typically been submitted until after the plat is approved.
8. Lot sizes – It is indicated that data in the staff’s information is misleading, including that the staff information states the minimum parcel is 17,250 sf, but indicates the “land owners with houses minimum size is actually 20,250” and that the “real average is 31,500 sf”, and suggests that the minimum lot size for the proposed subdivision should be 20,000 sf or greater and an average of 31,000 sf. It is unclear how the indicated minimum and average were arrived at, but it would appear to include area where a lot owner has bought all or part of an adjoining lot or an additional tract of unplatted land. The intention of the staff analysis of lot size was to compare the lot sizes as lots were originally platted, and not combined lots or parcels. Lots 2 and 4 of Nottingham Addition were plated as 17,250 sf and are the smallest lots in the existing subdivisions. The proposed lot sizes do not appear to be significantly different than the lot sizes as platted in the existing subdivisions, and on average, are 772.5 SF larger, with the smallest lot proposed being 546 SF smaller than the smallest platted lots in the existing subdivisions.
9. Staff Recommendation is Inaccurate in several areas – It is indicated that the staff recommendation and conclusion of compliance with the Subdivision Ordinance “is completely inaccurate and indicated the staff are either not aware of the entirety of the subdivision and zoning ordinances of the City of Waterloo, or have chosen to ignore certain sections in favor of the developer”. This statement is incorrect and without any supporting documentation to indicate what requirement(s) are not being met. Staff is aware of the entirety of the Subdivision Ordinance and the Zoning Ordinance and are not choosing to ignore any sections, and staff would reaffirm our conclusion that the requested plat is in accordance with the Subdivision Ordinance.

10. 40 Day action limit – It is indicated that the Committee (Commission) has 40 days to approve, conditionally approve, or deny development proposal. This is partially correct in that the Subdivision Ordinance provides for a 40 day time limit for the Commission to act on a Preliminary Plat after the date of the regular meeting of the Commission at which a Preliminary Plat was first presented (11-3-2(C) of the Code of Ordinances). No such limitation is provided for a Final Plat, although 354.8 of the State Code provides for a 60 day time limit. The plat (preliminary and final) was originally presented to the Commission at their September 9th, 2014 regular meeting, where it was tabled to the October 14th, 2014 regular meeting (within the 40 days). After the Attorney's Office legal opinion was provided that attempted action at the October 14th meeting was not valid due to a loss of a quorum of the members of the Commission and staff's determination that the request would need to go back before the Commission for action, the applicant voluntarily withdrew his request from the November 4th agenda. Therefore, when the applicant re-submitted the requests for the December 2nd, 2014 regular meeting, this started a new time limit. The time limits are for the benefit of the applicant of a requested subdivision, and 354.10 of the State Code provides for an applicant who is aggrieved due to failure of the governing body to approve or reject a subdivision plat within 60 days to appeal to district court. Adjoining property owners are not listed as an aggrieved party that can appeal due to a plat not being acted on within a statutory time limit.
11. Legal Issues – It is indicated that a violation of the Subdivision Ordinance is a legal violation, subject to criminal penalty. This statement is correct; however there is no violation of the Subdivision Ordinance pertaining to the proposed plat.

Respectfully,



Aric A. Schroeder,
City Planner



Fwd: P & Z Commission

George Stigler

to:

Amanda.Bair

11/04/2014 01:39 PM

Hide Details

From: George Stigler <georgestigler@mchsi.com>

To: Amanda.Bair@iowacourts.gov,

Begin forwarded message:

From: wjlupkes@mchsi.com

Date: October 17, 2014 at 12:50:53 PM CDT

To: Tammy Green <ladybugseventplanning@gmail.com>, "Karo Stigler@iand.uscourts.gov Stigler" <Karo_Stigler@iand.uscourts.gov>, Mary Jo Goerdts <mjgoerdts5@mchsi.com>, georgestigler@mchsi.com, Pamela Wolf <tenniswolf1@hotmail.com>, Nita Patel <nitap71@gmail.com>, Stephen Grimm <grimmiowa@aol.com>, mgrimm@epamidwest.com, sanpena@hotmail.com, josh schmidt <josh.schmidt@mchsi.com>, the neys <the_neys@hotmail.com>, ashryerson@hotmail.com, Pdoulaveris Doulaveris <pdoulaveris@yahoo.com>, smattoon7@aol.com, Ken & Michelle So <kenmicso@gmail.com>, eric ritland <eric.ritland@gmail.com>, Goerdts Terry <GoerdtsTerryJ@johndeere.com>, Garry Luterek <gluterek@mchsi.com>, Funk Jina M <FunkJaninaM@johndeere.com>, cfunk@idsiowa.com, jlriland@gmail.com, Tony and Lynn <weareservinghim@mchsi.com>

Subject: Fwd: P & Z Commission

Here is the email from Noel Anderson, head of the planning department.

----- Forwarded Message -----

From: "Wendell Lupkes" <wjlupkes@vjengineering.com>

To: "Wendell Lupkes" <wjlupkes@mchsi.com>

Sent: Friday, October 17, 2014 8:30:00 AM GMT -06:00 US/Canada Central

Subject: FW: P & Z Commission

From: NOEL ANDERSON [<mailto:NOEL.ANDERSON@WATERLOO-IA.ORG>]

Sent: Thursday, October 16, 2014 5:16 PM

To: ARIC SCHROEDER; MAYOR CLARK; COUNCIL MEMBERS; Tim Jamison; SUZY SCHARES

Cc: Wendell Lupkes; Bill Claassen; 'Rick Young'; 'Michael Young'; PATTIE MAGEE; ERIC THORSON; chris.wendland@cbwhlaw.com

Subject: P & Z Commission

All – at the recent Planning Commission meeting, it was questioned if we had a quorum (we need 5) after Mr. Young vacated his seat to go into audience.

Initially, since Mr. Young would be abstaining anyway, we thought we were ok since he was still present at meeting.

After consulting with the City Attorney's office, we were incorrect.

"Yesterday's meeting met that requirement, to a point. When Mike Young left his seat, went to the audience to sit with his client, and then spoke as advocate for his client on an application to PZC, he was no longer a commission member and accordingly the quorum was lost. At that point, the meeting became incapable of conducting business. Any business conducted during the period when a quorum failed to exist is invalid and void. Thus, in my opinion it is eligible to be introduced at the next meeting for action by a bona fide quorum. Because the vote was a nullity, there is no recommendation to present to council."

I apologize to all parties involved for this. We will need to go back to the Planning Commission for a recommendation prior to going to City Council. The three items voted on during this time period all had to do with Nottingham Addition, so they will all be moved to the front of the next Planning Commission Agenda, planned for November 4 th . I take personal responsibility for the loss of quorum. I was aware there may be a problem with the quorum, but given the interest of everyone (public, applicants, and Commissioners) having already sat for two hours, and took the time, effort, made visual displays, put together thoughts, speeches, and presentations, etc. -- I thought it best to proceed with the presentations of information, hear technical data, hear concerns from others, and move ahead to a vote. Unfortunately, the worst case scenario was the result, that we will need to re-do the action. On the bright side, we were able to hear a lot more information on this decision, that will help us all to move ahead for potential solutions.

Thanks you all for your continued work for the betterment of Waterloo. Thank you to the Planning Commissioners who were able to make meeting and stay. Hopefully we can get a more steady attendance moving ahead. We have had several very large and lengthy agendas for the Planning Commission lately, and we appreciate your commitment to projects in the City of Waterloo. These are exciting, yet sometimes difficult, decisions to make and commit time to properly review.

Thanks again, and see you next month,



Fwd: Demand to be placed on the Planning and Zoning November 4, 2014 agenda
 George Stigler
 to:
 Amanda.Bair
 11/04/2014 01:39 PM
 Hide Details
 From: George Stigler <georgestigler@mchsi.com>
 To: Amanda.Bair@iowacourts.gov,

Begin forwarded message:

From: NOEL ANDERSON <NOEL.ANDERSON@WATERLOO-IA.ORG>
Date: October 28, 2014 at 3:18:46 PM CDT
To: "georgestigler@mchsi.com" <georgestigler@mchsi.com>, MICHELLE WESTPHAL <MICHELLE.WESTPHAL@WATERLOO-IA.ORG>, DAVID JONES <DAVID.JONES.WARD1@GMAIL.COM>, CAROLYN COLE <CAROLYN.COLE@VGM.COM>, TOM LIND <TOMLINDCITYCOUNCIL@GMAIL.COM>, PAT MORRISSEY <PJFM59@MCHSI.COM>, STEVE SCHMITT <SSCHMITT@SCHMITTHOUSE.COM>, QUENTIN HART <CouncilmanHart@mediacombb.net>, "chris.wendland@cbwhlaw.com" <chris.wendland@cbwhlaw.com>, "tim.jamison@wfcourier.com" <tim.jamison@wfcourier.com>
Cc: "wjlpukes@mchsi.com" <wjlpukes@mchsi.com>, "gluterek@mchsi.com" <gluterek@mchsi.com>, "tenniswolf1@hotmail.com" <tenniswolf1@hotmail.com>, MAYOR CLARK <BUCK.CLARK@WATERLOO-IA.ORG>, ARIC SCHROEDER <ARIC.SCHROEDER@WATERLOO-IA.ORG>, "chris.wendland@cbwhlaw.com" <chris.wendland@cbwhlaw.com>, DAVE ZELLHOEFER <DAVE.ZELLHOEFER@WATERLOO-IA.ORG>
Subject: RE: Demand to be placed on the Planning and Zoning November 4, 2014 agenda

Dear Mr. Stigler:

I have further spoken with Mr. Wendland and we will follow his advice. After further discussion, Mr. Wendland reiterated:

"...there are no issues with the open meetings law. Also, abstention isn't the issue. The issue is whether a quorum was preserved in light of how Mike Young conducted himself. The problem came from his decision to physically separate himself from the commission, physically join with the applicant, and then to functionally act as an advocate for the applicant from the opposite side of the bar. The roles are inconsistent and irreconcilable. Thus, when he could no longer be a commissioner (even an abstaining commissioner), he broke quorum."

Therefore, we are sticking with the conclusion that a quorum was not available for the vote on the item and it still needs Planning Commission for review and recommendation. The applicant has also chosen to withdraw their request from the November 4, 2014 meeting

agenda. Under Section 5.4 of the City of Waterloo Planning & Zoning Commission Administrative Rules, they have the right to do so.

We will work to keep all parties aware of when they bring the request back for Commission action.

If the opposition wishes to address the matter at the November 4, 2014 meeting, you may do so under the oral presentation portion of the agenda, which is open to members of the public to speak on items not on the agenda.

Thank you all for your interest and participation in the City of Waterloo Planning Commission.

Thanks,
Noel

Noel Anderson
Community Planning & Development Director
City of Waterloo
715 Mulberry Street
Waterloo, Iowa 50703
Phone 319.291.4366
Fax: 319.291.4262
Cell: 319.290.6357
Websites:
City – www.cityofwaterlooiowa.com
Brownfields - www.thenewwaterloo.com

"Can't fail is arrogance. Won't fail is confidence." – Lord John Roxton

-----Original Message-----

From: georgestigler@mchsi.com [<mailto:georgestigler@mchsi.com>]
Sent: Thursday, October 23, 2014 8:03 PM
To: NOEL ANDERSON; MICHELLE WESTPHAL; DAVID JONES; CAROLYN COLE;
TOM LIND; PAT MORRISSEY; STEVE SCHMITT; QUENTIN HART;
chris.wendland@cbwhlaw.com; tim.jamison@wcfcourier.com
Cc: wjlupkes@mchsi.com; gluterek@mchsi.com; tenniswolf1@hotmail.com
Subject: Demand to be placed on the Planning and Zoning November 4, 2014 agenda

Mr. Anderson, Planning and Zoning Commission members, Mayor and Waterloo City Council members:

Please consider this a formal demand that you place the opposition to the Robin Hood Enterprises issue on the November 4 Planning and Zoning Commission agenda. The legal advice assistant city attorney Chris Wendland gave you is contrary to Iowa law. Iowa law is crystal clear. An abstention has ABSOLUTELY NO EFFECT on a quorum. The October 14 action of the Commission is valid. Mr. Wendland's advice was erroneous. Additionally, his and your advice to the Commission and the Mayor and City Council suggests a violation of the Iowa Open Meetings law.

We, the undersigned, hereby state our opposition to the request by Robin Hood Enterprises, LLC preliminary plat of Nottingham Third Addition. We believe the proposal presents serious dangers to the health, safety, well-being, and property values of existing neighborhoods and the future occupants of the proposed subdivision. We ask that the City of Waterloo Planning and Zoning Commission not approve the proposed plat.

Name

Address

Lynn R Day

4525 William Drive

Karol Stigler

4616 William Dr.

Pamela Wey

4810 W. 4th St

Kelly D. Wolf

4810 W 4th Street

Shelley Moller

4532 William Dr.

Isaiah

4532 William Dr

Mary Jo Goerdt

4818 W. 4th St.

Michelle So

4632 William Dr.

Kate S. So

4632 William Dr.

Septa

4646 William Dr

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Name

Address

Joan Ney

4751 Luxley Dr

Kirk F Ney

4751 Luxley Dr

Terry J Hoeft

4818 W 4th

Mary Bain

4446 William Drive

Long Joe

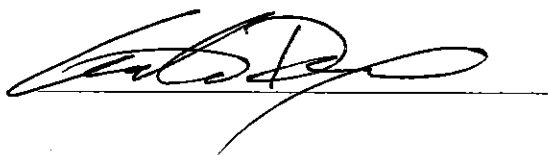
4730 J. 4th

Jim Fink

4730 W. 4th St.

Phyllis Dmoe

4558 William Dr. Waterloo



4558 William Dr. Waterloo

GARRY LUTERIK

4828 WEST 4TH W'LOO

Mary Luterik

4828 West 4th St. W'loo

Ashley Naylor

4544 William Dr. W'loo

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Name

Address

Dr. Richard Naylor

4544 William Dr. W'loo

Quinnstrand

4566 William Dr. W'loo

Thompson

4736 Luxley Dr. W'loo

James

4736 Luxley Dr. W'loo

John H.

4616 William Dr. W'loo