

City of West Branch

~A Heritage for Success~

Office of the City Attorney

MEMORANDUM

TO: Matt Muckler

FROM: Kevin D. Olson

Date: December 15, 2014

RE: The Meadows Subdivision, Phase Two, West Branch, Iowa
Preliminary Plat

CC: Dave Schechinger

Matt, in addition to providing a draft Subdivider's Agreement, I make the following comments:

1. There are listed two sediment basins for the proposed Storm Water Management Facility of Outlot A. Some type of access will need to be granted to allow for the City (if the City takes the Outlot) or the Subdivider/Homeowners' Association access to clean/dredge the sediment basins.
2. I have listed two alternatives in the Subdivider's Agreement for the construction of the storm water management facility on Outlot A.
3. Needs to be a sidewalk across Outlot A adjacent to Main Street if the sidewalk will continue to the west.
4. Do we need any more right-of-way along W. Main Street for future improvements as shown by the traffic study?
5. Waivers will have to be granted for Orange Street.
6. If the City does not take possession of Outlot A, we will need easements at the outfalls to ensure we have access to clean these out since the outfalls will take water from the street.
7. Subdivider should pay for cost of crossing of W. Main Street.

Let me know if you have any questions.

CITY OF WEST BRANCH, IOWA/SUBDIVIDER'S AGREEMENT

THE MEADOWS SUBDIVISION, PHASE TWO

This Agreement is made by and between KLM Investments, L.L.C., an Iowa limited liability company, hereinafter referred to as the "Subdivider", and the City of West Branch, Iowa, a Municipal corporation, hereinafter referred to as the "City".

WITNESSETH

SECTION 1. MUNICIPAL IMPROVEMENTS; CONSTRUCTION AND INSTALLATION OF MUNICIPAL IMPROVEMENTS.

In consideration of the city approving the plat and subdivision of real estate known and designated as The Meadows Subdivision, Phase Two, West Branch, Iowa, prior to Subdivider's installation and construction of the required municipal improvements, Subdivider shall make escrow provisions as provided herein. Municipal improvements shall include a 31-foot PCC street known as Orange Street, a 31-foot PCC street known as Dawson Drive (south of Orange Street), a 29-foot PCC street known as Dawson Drive (north of Orange Street), sanitary sewers, water mains, storm sewers, sump-pump line, street lighting, a 6-foot sidewalk on Main Street in front of Outlot A continuing westerly to the westernmost point of Outlot A, a mid-block crosswalk across Dawson Drive as shown on the plat, fire hydrants with appropriate STORZ connections as approved by the Fire Chief and a storm water detention facility as outlined in Paragraph 11 below to serve Phase Two of this subdivision and additional phases of The Meadows Subdivision. Said municipal improvements shall be constructed and installed in accordance with construction plans and specifications approved by the City Engineer of the City who shall have the right to make or authorize occasional inspections of the work in progress. Said inspections shall not relieve or release the Subdivider from the responsibility to construct the municipal improvements in accordance with the approved plans and specifications.

The Subdivider is hereby required to remove the abandoned sanitary sewer line that will be located under the proposed storm water retention facility and is required to abandon the remaining sanitary sewer line located on Outlot A in place after placing flowable mortar in said sanitary sewer line.

SECTION 2. SIDEWALKS.

The Subdivider agrees that no later than three (3) years from the date of the City's Resolution approving the Final Plat of The Meadows Subdivision, Phase Two, West Branch, Iowa, or upon seventy-five percent (75%) of the development of the lots therein,

whichever occurs first, to install sidewalks abutting each lot which shall be at least five (5) feet wide and constructed according to the plans and specifications as approved by the City Engineer. The escrow provision need not include the sidewalk installation, however, the same shall remain a lien against each lot until accepted and released by the City.

SECTION 3. ESCROW MONIES

The Subdivider shall deposit with the City Clerk in escrow an amount equal to the estimated cost of constructing the municipal improvements plus 10% thereof as determined by the City Engineer and said deposit shall be referred to as "Municipal Improvements Escrow". The escrow deposit shall be in the form of cash, bank check that will be cashed, bond or irrevocable letter of credit, all as approved by the City Attorney.

SECTION 4. USE OF ESCROW MONIES

If, after one year from the date of the City's resolution approving the preliminary plat of the subdivision, the municipal improvements have not been constructed and installed for the subdivision, then City may use and/or make demand upon the municipal improvements escrow to construct and install said municipal improvements. The City shall release any bond or letter of credit or refund to the Subdivider any portions of or any excess escrow monies not used by the City after construction, installation and acceptance of all of the municipal improvements. Any cash or check held in escrow shall be released as needed for payment of the costs of the improvements.

In addition, the City may make use of any of the proceeds of the security provided by Subdivider in order to enforce the erosion control requirements pursuant to Section 170.15(15) of the West Branch Code of Ordinances.

SECTION 5. WAIVER

In the event the Subdivider shall sell or convey or make application for a building permit on any lot or lots in the subdivision without having first constructed and installed all the municipal improvements for the subdivision, then the City shall have the right to proceed therewith as provided in Section 3 above.

SECTION 6. LIEN

The costs of the construction and installation of the municipal improvements shall be a lien and charged against all lots in said subdivision and need not meet the requirements of notice, benefit or value as provided for by the Code of Iowa for assessing said municipal improvements which may exceed the municipal improvements escrow.

SECTION 7. RELEASE

The City agrees that when all municipal improvements have been constructed and installed for the subdivision, to the satisfaction of the City and upon acceptance by resolution, to furnish the Subdivider a good and sufficient Release for filing in the office of the County Recorder so that this Agreement will not constitute a cloud upon the title.

SECTION 8. PUBLIC SERVICES.

Subdivider agrees that public services including, street maintenance, snow plowing, water and sanitary sewer service, will not be provided in said subdivision until the municipal improvements have been constructed, installed and accepted by the City.

SECTION 9. STORM WATER DETENTION OR MANAGEMENT FACILITIES

The Subdivider shall be required to install a wet-bottom storm water detention facility on Outlot A of said subdivision. In constructing said storm water detention facility, the Subdivider shall be required to detain the difference in volume of the five year undeveloped storm and the one hundred year developed storm events on the entire approximate 80 -acre tract owned by Subdivider. In doing so, the Subdivider is required to abandon and remove an existing sanitary sewer main in a manner acceptable to the City Engineer. In addition, the Subdivider shall construct a ten foot trail around the entire perimeter of the wet-bottom basin in accordance with City's standards. Once the wet-bottom and trail have been completed, the Subdivider shall convey the title to Outlot A to the City via Warranty Deed and after said conveyance, maintenance shall be the responsibility of the City. (WET-BOTTOM WITH TRAIL – CITY ACCEPTS)

OR

The Subdivider shall be required to install a storm water detention facility on Outlot A of said subdivision. In constructing said storm water detention facility, the Subdivider shall be required to detain the difference in volume of the five year undeveloped storm and the one hundred year developed storm events on the entire approximate 80 -acre tract owned by Subdivider. In doing so, the Subdivider is required to abandon and remove an existing sanitary sewer main in a manner acceptable to the City Engineer.

The Subdivider shall form a homeowners' association to be responsible for the maintenance of said detention basin. Said storm water detention facility shall be mowed so that the vegetation in the storm water detention facility is no taller than six inches in height, except where necessary to assist with the functioning of said Storm Water Detention facility, as approved by the City Engineer. In addition, the Subdivider shall repair/remove any sand or other siltation in said Storm Water Detention facility so that the facility

functions to hold the amount of storm water for which it was designed.

Upon request of the City Engineer, the Subdivider shall provide appropriate data to the City Engineer for review to ensure that the storm water detention facility is capable of providing the design capacity of the facility. The City Engineer, in its sole discretion, may require appropriate measures be performed by the Subdivider if the capacity has been reduced by sand, siltation or any other similar problems.

In the event that the Subdivider, the Homeowners' Association, or its assigns, fail to maintain the Storm Water Detention facilities in accordance with the standards set above, then the City has the right to perform said maintenance and invoice Subdivider for said maintenance costs. In the event that the Subdivider or Homeowners' Association does not reimburse the City for its costs within 30 days of the submission of an invoice, the City shall have the right to assess the costs equally to all of the lots of this Subdivision, and any other phases of The Meadows Subdivision. The assessment amount for each lot shall be calculated by dividing the entire costs incurred by the City, including legal, engineering and administrative costs to perform said required maintenance, and divide that equally among the lots that have been final platted in The Meadows Subdivision, Phase Two or the rest of the property to be developed as future phases of the Meadows Subdivision(s). Subdivider expressly waives all provisions of notice, benefit and value as it pertains to this special assessment.

SECTION 12. PEDESTRIAN STREET CROSSING ON MAIN STREET.

Subdivider shall construct a street crossing on Main Street, which shall include an appropriate crosswalk and traffic signal as approved by the City Engineer and the Manual on Uniform Traffic Control Devices. Subdivider shall work with the West Branch Community School District to connect said crossing to the school property located on the south side of Main Street. The City shall draft an ordinance designating an appropriate school speed zone on Main Street to enhance the safety of the new crossing.

SECTION 13. PARKS/TRAILS.

As required by the comprehensive plan, the Subdivider expressly agrees and acknowledges that future phases of The Meadows subdivisions shall include useable park and open space as required by the comprehensive plan.

SECTION 14. ASSIGNS AND SUCCESSORS

This agreement shall be binding upon the parties, their assigns or successors in interest and it is understood that the City, at its option, may contract for the construction and installation of the municipal improvements as provided above.

Dated this ____ day of _____, 2015.

KLM Investments, LLC:

City of West Branch:

By: _____
_____, Manager

Mark Worrell, Mayor

ATTEST:

Matt Muckler, City Administrator/Clerk

STATE OF IOWA, COUNTY OF CEDAR, ss:

On this ____ day of _____, 2015, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Mark Worrell and Matt Muckler, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of West Branch, Iowa; a municipal corporation; that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation, by authority of its City Council, as passed by Resolution of the City Council; and Mark Worrell and Matt Muckler acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.

A Notary Public in and for the
State of Iowa

STATE OF IOWA, COUNTY OF CEDAR, ss:

This instrument was acknowledged before me on the ____ day of _____, 2015, by _____ as Manager of KLM Investments, L.L.C.

Notary Public