

October 22, 2019

Via Email and Hand Delivery

Ms. Sue Olson, P.E.
Project Engineer
City of Appleton
Department of Public Works
Engineering Division
100 N. Appleton Street
Appleton, WI 54911

Re: Stormwater Billing for Parcel 31-1-9221-0 located at 7500 N. Purdy Parkway
(the "Property")

Dear Ms. Olson:

We represent MEU Holdings, LLC with respect to your October 10, 2019, letter proposing to increase the stormwater assessment on the above-referenced single family residential Property from \$175 per year to \$9,275 per year. I understand from your letter that this matter will be discussed at a meeting of the Utilities Committee at 5 p.m. today, October 22, 2019. We ask that this letter be made part of the record for the Committee.

Although our analysis is ongoing, there are several points about which the Utilities Committee should be aware:

- 1) As acknowledged in the City's October 10, 2019 letter, this is a "residential property", defined in Section 20-229 of the Appleton City Ordinances to mean "developed exclusively for residential purposes including, but not limited to, single family homes" The Property certainly is a property developed exclusively for residential purposes, containing a single family home and authorized accessory buildings, private road and other amenities. Neither the size of the Property nor the amenities present on the Property change its residential character. Nor is there any commercial aspect of this parcel, though that term appears not to be defined in the stormwater ordinances.
- 2) To the extent that portions of the Property are agricultural in character, we note that "Agricultural Facilities and Practices" are exempt from the Stormwater Rules. Section 20-311(a)(2).
- 3) Even if the Property or any portion of it were somehow considered to be non-residential, Section 20-236(b)(2) of the City's Ordinances provides that the calculation of the ERU charge should be based upon the amount of "impervious area contributing to surface water runoff", not

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total lot area. The actual impervious area on this property is only a very small fraction of the total lot area, a fraction which we expect upon further analysis will be less than the approximately 125,000 square feet which forms the basis of the City's proposed ERU charge.

4) The impervious areas on the Property appear to contribute virtually nothing to the City's stormwater, in large part precisely because of the large amounts of pervious undeveloped, agricultural and forest areas which surround almost of all of the impervious areas on the Property. As a practical matter, the Property is responsible for little, if any, stormwater runoff.

We are not aware of any basis in State law or the City's Ordinances to reclassify the residential Property containing a home as "commercial" or any other non-residential use, and we ask that the Utilities Committee deny the proposed reclassification. If the Utilities Committee believes that this matter warrants further substantive discussion, then we ask that the Utilities Committee defer any possible reclassification of the Property as commercial for stormwater billing purposes, as proposed in your letter, to permit us to continue our review of this matter and, if necessary, hire a stormwater engineering consultant to assist us. In the meantime, we would be pleased to meet with Engineering Division staff to explore a possible resolution of this matter.

Thank you for your consideration.

Sincerely,

von BRIESEN & ROPER, s.c.



Michael P. Carlton

MPC:sev
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