To Whom It May Concern:

We are writing this letter in response to a letter we received from the city regarding a major drainage easement on our lot. After reviewing documents we received prior to and at the closing of our home, we were not aware of the major drainage easement on our lot. We are left with several concerns and questions regarding this easement.

We had future plans for our backyard. We wanted to create a safe play area for our children and build a fence for our dog. Due to the 10-foot drainage easement we are losing half of our backyard. We are also left with the concerns regarding the resale and value of our home; usable and safe backyard space, and why we were not informed about the major drainage easement during the process of building our home and at closing.

We are willing to work with neighbors, surveyors, and builders to create a system that works for everyone. Thank you for your time and help in this matter.

Sincerely,

Cody & Angelyn Wolforth

Additional Contact Information:
Phone #: 605-430-7381 or 605-430-2524
Email: cwolforth@gmail.com or angelynavery@gmail.com

RECEIVED
SEP 19 2016
RAPID CITY COMMUNITY PLANNING & DEVELOPMENT SERVICES
To Whom It May Concern,

We are the homeowners at 4350 Duckhorn St. We have recently been made aware of an easement in our backyard in which we have been told we need to move 2 encroachments. This news was very discouraging for us. Last summer we were paying for a wedding and attempting to start some landscaping on our new home. We put $8,000 into our landscaping before being tapped out. That was your regular landscaping (sod, sprinklers, rock, etc.), but also included a shed and a rock pad for it to sit on as well as a concrete fire pit pad with gas line plumbed underground to it. We had also gone through the work of contacting several fence companies and had them come out and give us a quote. We were happy to have a start on our backyard, however after saving up for another year we were really looking forward to finishing it this summer so we could begin to entertain and enjoy our space. Our new dog could finally have a yard with a fence and place to run and be outside which he has desperately needed. We have a child on the way and were excited about him having a safe place within our yard to play as he grows. Although now we are not willing to put the $4,000 plus dollars into the fence 10 feet from our property line as it will make our small yard even smaller. Not to mention the fact that from all the quotes we received gates are extremely expensive and we would have to pay for another one in the back just to get to the easement that we would still be required to maintain outside our fence.

It has been extremely hard to stomach what is actually being asked of us with this easement issue. Not only have time and money played an obvious factor in the start of our landscaping, but now we are being asked to toss all that out the window, rip up concrete, tear up our yards in order to move our shed and sprinkler lines and not be able to have a fence. Then turn around and pay for it all over again. We don’t understand how our entire street was able to finish their backyards before anything was said about this issue. The timing of attempting to enforce this is extremely frustrating. We understand that rules are rules, but had something been said sooner by anyone (builder, landscaper, surveyor etc.) we would not have placed our shed and concrete pad where we did. In fact, had we known we would be losing that much of our yard we would have reconsidered buying the lot in the first place. Which is incredibly unfortunate, because this is our first home together and we love our home and area.

These modifications to our backyard drastically change how we feel about our home and the amount of time we will probably stay here now. Which brings up another scary concern...resale. If it is a big enough issue for us to consider selling, will it be an issue for a future buyer as well? We are really hoping that some kind of compromise can be made on behalf of solving this matter.

Sincerely,
Eric and Britney Brouillette

RECEIVED
SEP 19 2016
RAPID CITY COMMUNITY PLANNING & DEVELOPMENT SERVICES
To Whom It May Concern,

We are writing this letter in response to a recent letter received from the City of Rapid City reference an encroachment in a drainage ditch that the Rapid City is considering a “major drainage easement”, located on the back side of our property (east side). Between the times, I, Cory Shafer, had spoke with the representative from Rapid City who conducted the survey of our property and us having received the letter from Rapid City, we have conducted research and educated ourselves regarding the ordinance in question. During this short time frame, we have gathered paperwork provided to us from our builder, Nesland Construction. After reviewing our paperwork, we have some concerns we would like addressed and questions to be answered before proceeding any further with this process. I understand, as a homeowner, I may not necessarily like the answers I receive, however as taxpayers, I feel it is my right to ask the questions and receive the answers. We are in no way wanting to point fingers, but not having been told about this encroachment and easement is both frustrating and disappointing. Following is a little background on purchasing our home, our investment in our home and the community, our concerns about the communication of the encroachment and ordinance, and questions.

After relocating to Rapid City from Las Vegas, NV, we searched Rapid City for a home that would be a long term investment and conducive for us, a family of four. This investment meant the world to us, as we had completed college, were successfully employed in our career field, and had saved money to “put down” when the time came to purchase a home. We felt we were doing the right thing, so when the time came, going through the process of applying for a mortgage was not stressful. Knowing that purchasing a home was not going to be easy or cheap, we continued to save money, research properties, school districts, locations, neighborhoods, and take the appropriate steps to facilitate all of our families needs. We understood we needed a fence, as this would provide a safe barrier for our children (3 year old and a 6 month old) to play in. Take in consideration any surrounding neighbors we may have and keep a barrier for our dog. We wanted a neighborhood that our children could grow along with other children. We hoped for a neighborhood “off the beaten path” so we could enjoy walks, family bbq’s, etc. without having a high flow of traffic and noise. After searching for some time, we decided building was the best option for our family. In May of 2014, we found an amazing location and plans that would suit our family. We were excited about our future home on Duckhorn St (Elks Crossing Subdivision) and thought it would be a great place to raise a family and watch our children grow!

We purchased our lot and house in August 2014. This mortgage included the purchase of the lot and the building of our house, which was built by Nesland Construction. Separate from our mortgage,
we invested in a fence, finished back yard (sprinkler system and sod), shed, raised garden planter boxes, and small shrubs. The fence was approximately six thousand ($6,000.00) to build. The fence is what is commonly referred to as a “double-pane” fence; it is similar to that of a privacy fence. The contractor who built the fence, was someone contracted by our landscaping contractor, Mystic Mountain Landscaping. In addition to the fence, Mystic Mountain Landscaping installed our sprinkler system and several tons of rock (slate) in our back yard, next to the fence. The rock that lays next to the fence, which is on the inside of the fence, is approximately three to five feet in width and runs the whole length of our fence (north to south). It was placed there to assist with any type of drainage that may occur in this particular area of our property. We were advised it would not be worth landscaping it with sod and a sprinkler system as it could be potentially ruined with any drainage that may travel this area. Last, the shed. The shed was considered this year, about the beginning of spring. Unfortunately we couldn’t buy a shed from a retailer because there was no way the truck used to deliver the shed could access our back yard due to surrounding houses being built or yards being finished. Therefore, we had to build one. After digging up and leveling approximately 8’x8’ (eight feet by eight feet) and leveling it, we built the 8’x8’ shed to set on it. This was a cost of approximately $1,200.00 and not taking any consideration into hours and manpower.

After countless hours, help from others to build, and money that we had budgeted or saved, we are now being told to tear out the fence and move it back toward our house 10’ (ten feet). Move our shed toward our house approximately 3’ (three feet). Moving the fence in 10’ (ten feet) would require us to tear up a large portion of our sprinkler system and relocate it inside of the fence. Time, money and effort that is impractical at this point. We would also need to rip out maturing sod to replace the moved fence, again money that was spent on an investment which was methodically planned out for our family. We would have to relocate the rock and likely lose some of that rock to waste, again costing us money previously saved for our future investment. We would lose the small shrubs we have planted, again money wasted. We would lose approximately 20’ (twenty feet) of fence, 10’ from each side, an approximate loss of $705.00 dollars. We would have to attempt to move our shed from its original spot, dig another 2’-3’, re-level the area, and move the shed to a position within compliance. Once compliant with this ordinance, we would look to lose approximately one-third of our back yard, a loss of approximately $3,630.00 dollars. If we move the rock back inside of the fence, we will lose approximately one half of our back yard, an approximate loss of $5,500. If we don’t move the rock, we are simply out that money.

By this time, I would think you understand our point. We have taken the responsibility as homeowners and neighbors to address issues like having a fence due to having children, dogs, and wanting privacy. We bought a shed to alleviate any clutter in our basement and/or garage. We put rock down next to our fence to assist in any drainage issues that might occur in our backyard to mitigate damage to our property. Our garden planter boxes are raised approximately twelve inches. We understand homeownership is not only an investment into a home but also as a neighborhood and surrounding community. At this point, we are undecided if we are going to have to sell and relocate. If we sell, we have a growing concern that this ordinance will bear affect on the value of our home, something we shouldn’t have to worry about as new homeowners of a brand new up and coming
neighborhood. If this has any affect on the value of our home, we cannot justify investing any further money into the home, neighborhood or the surrounding community. We as homeowners, along with surrounding neighbors, have questions.

-What is the definition of a major drainage easement? (We have been not been able to find a definition of this in any of the ordinances the city has)

-Does anything need to be put in place in a major drainage easement to identify it as being a major drainage easement? Such as rock, deeper slope or ditch, culvert, etc?

-Can a major drainage easement be man-made?

-Is this major drainage easement man-made? If so, who made the drainage and why was it re-routed from its natural flow?

These are only some of the questions we have within our neighborhood, at this moment you can only imagine the frustration we have. Not to mention we continue to carry the responsibility of work, day in and day out. Again, we don’t want to point fingers but want to come to some sort of resolution with the City, Contractors, and neighbors to find a solution that is in the best economical interest of everyone. We ultimately carry the burden in this matter, however we find it hard to fathom that between several contractors building houses in this area, building fences, landscaping yards, laying concrete, delivering sheds, inspectors inspecting job sites, and not one time was it spelled out to us that we would be in violation of this “major drainage easement” ordinance violation. I am led to believe there is a miscommunication somewhere. Now, almost three years after we built our home, this ordinance is being enforced. We were advised that “the city is preparing for the 100 year flood”. I would hope and pray the city of Rapid City would reconsider their plans of this major drainage easement of 20’, 10’ from center, and the way this drainage is currently “prepped” if we are to prepare for the 100 year flood. Over the past couple years, Rapid Creek has either flooded or came close, and I am led to believe Rapid Creek is deeper than this drainage and also appears to be 20’ wide in spots. And if we are preparing for the 100 year flood, I would think more citizens of Rapid City should be warned. According to FEMA flood plain maps this area is not considered in the Major Flood Risk Zone, thus we would have been required by our mortgage company to carry flood insurance. Something we have not been required to purchase and is not a concern.

We are willing to work with whoever it is to come to an agreement on a solution that is reasonable. Going forward, we would also like answers to our questions. I believe our questions are reasonable and as a taxpaying citizen of Rapid City, I believe we are entitled to an open conversation about this matter moving forward.

I have attached a copy of RapidMap. This appears to indicate major drainage in this area, which is current as of 2015. If this is accurate, the natural water flow, or major drainage easement, flows from the southwest corner of the map to the north east corner. Crossing Fieldstone Dr, Duckhorn St, and Vinecliff Dr from South West to North East, not South to North between Vinecliff Dr and Duckhorn St.
This is an example of the concerns we have regarding this drainage ditch placement. After reading this, it contradicts the position of the drainage easement that we are currently encroaching.

I want to thank you for your time and consideration into this matter. I hope there is a reasonable solution we all can come to an agreement on.

Sincerely,
Cory & Danielle Shafer

PH: 605/390/6143 or 605/391/7095
EMAIL: cshafer1985@gmail.com
Mike and Coleen Wagner  
4402 Duckhorn St.  
Rapid City, SD 57703  
(605)484-0633

We moved here to Duckhorn St in July of 2014. When we moved in we put up a fence not too much long after because of our dog. Now I receive a letter from the city attorney’s office that I have to move my fence ten feet and I cannot put anything in the back of my property because of a major easement. When we were in the process of purchasing our house we saw a property layout and all we saw was an eight-foot minor utility and water easement.

I ask you this, if you were going to buy property and you knew that you couldn’t use about a third of it, but you still have to maintain it, would you still buy it? Am I in a flood plain, no. Are major utilities going back there, no, they are in the front of my house. This has a big economic impact on the value of my property if I ever decide to sell, wouldn’t you think? I believe the property owners of Duckhorn and Vinecliff were misled in some way.

I believe that the city and the residents of Duckhorn and Vinecliff can come up with some solution to this situation, other than sending me a letter from an attorney telling me that I have to move my fence at my expense and losing a third of my back yard. I don’t have to go very far and find the same situations on other properties, drainage wise, and I don’t see a ten-foot encroachment on their property. I find it kind of puzzling that out of all the people that live on these two streets, not one that I talked to, knew about this major easement. They knew an eight-foot minor easement, but not a ten-foot major.

Like I said before, I’m sure the city and the residents of Duckhorn and Vinecliff can come up with a solution to this problem, other than costing the homeowners thousands and thousands of dollars, and half of their back yards.

Mike Wagner

RECEIVED
SEP 19 2016
RAPID CITY COMMUNITY PLANNING & DEVELOPMENT SERVICES
To Whom It May Concern:

We are writing this letter in response to a letter we received from the city regarding an encroachment that we have made to a major drainage easement located on the rear side of our property. We have done nothing but research and attempt to educate ourselves on this particular ordinance along with the paperwork that we had received from our builder prior to and at closing and have been left with several concerns and questions.

We purchased our house in September of 2014 and are going on our second year at this residence. We had dreamed and saved for this house for the past 10 years. We envisioned our children growing up here and us remaining in this home and neighborhood for years to come. It may seem like I am over exaggerating but that dream has been completely crushed by the recent survey done on our land. We have worked hard, along with our neighbors, to establish and invest in a neighborhood that we are proud to be a part of. We have spent countless hours and invested savings into providing a backyard for our children to play in and now, after we finally feel like we can sit back and enjoy it, we are being told to rip it out. Heartbreaking.

One of these investments was a 6 foot privacy fence located around the back property line. As houses behind us were being built as well as the continuing construction on Vinecliff and in the area it was a must have to ensure that our children were and are safe. It was a conversation we had with our builder from the second that we decided on purchasing our property. We were excited about building a play area in the back along with a fence that our 1 and 3 year old could play on. We filled our play area with rock and used the fence to block rocks from getting pushed into our neighbors yard. We put it in the only flat spot in our entire lot located along the back end of our property and almost entirely into the drainage easement.

In order to comply with the drainage easement, our privacy fence will need to be removed, our playground taken out and not replaced as there are no other flat spaces to work with, and we will need to pull out 5 ton of rock, re-landscape the area, purchase new sod to fill the space, and fill and cover holes from the fence posts. In addition to this huge financial burden, it would leave a backyard that we could not use. The backyard is so small and sloped in a way that encourages water to flow naturally downhill so there is really nothing that we can do with the space. We are heartbroken about this! When we envisioned our forever home we pictured a place where our kids could grow up and play, where family could be gathered, and where we could provide a safe and private space to enjoy that.

Now along with all of that, we have reviewed and spent countless hours staring and sitting through our paperwork trying to find where we should have caught this MAJOR mistake! Questions started to pop up on whether we were alone in this process and if we were the only ones who misunderstood or misread what we were given. What we found was that several of our neighbor shared our same concerns. We are not in the position nor have the education to start pointing fingers at how this should have been handled. We are simply hoping that there is some way to resolve this issue without destroying the tens of thousands of dollars that ourselves and our neighbors have already invested into our yards. The following are our major concerns and questions that we would like help with.

* First, we feel that this was information that we should have been given prior to purchasing and closing on our homes. Part of it comes down to, in the excitement of it all, we obviously did not ask the right questions to the right people. We were given no information about this easement, its location, or its stipulations. This is truly and honestly the FIRST time we have been addressed with this.

* It is NOT located on our individual plot survey which was given to us prior to closing. We received this from Zandstra Construction indicating an 8 foot minor utility and drainage easement along all boundaries of the property. It is signed and sealed by Jerry Wedland. This is the survey that we focused on prior to and at closing.
as we were under the impression that it showed all easements and encroachments that would effect our property. I have attached a copy of this survey for your review.

* The neighborhood plot survey is unclear and vague. When looking at our lot it appears to have the same dotted line as what is in the “Detail A” which again shows a minor drainage easement. Only when you looked down at lot 11 and to the side does it indicate a major drainage easement and it appears to be pointed at the lots behind us and then even further down on lot 12 it shows a mark for a 20’ line but also is not clear. We obviously thought that the line across the lots indicated an “8’ minor drainage easement to be created on this plot”.

* We are very confused on why it is just now being addressed. As stated previously we have already spent a lot of time and money to landscape our backyards. It is hard for us to swallow that 2-3 years after houses were being built, we are now being surveyed and notified.

* We directly contacted Chad Zandstra about the building of our fence. There was an inconsistency and confusion on where lot lines were actually located and we did not want to cause any problems with any of our neighbors or risk having to move our fence later on. Our property pins were buried and hard to locate. We asked for Mr. Zandstra’s help in locating them. He drove by and stopped at our house to confirm that we did find our pins. We discussed the plans for our fence and playground with him. Again, we have a hard time believing that again it was not addressed unless Mr. Zandstra himself was not aware of the easement.

* What this is going to do to the overall value of our homes as well as interest in someone else purchasing our home. If we are not able to resolve the issue, we feel it is in our family’s best interest to sell. Being honest and open people, we WILL bring this to the attention of future owners. In all honesty, we would not have purchased this home on this lot given this information and are afraid that others will feel the same.

* We are also very concerned about safety and privacy issues. Our lots are very small and our neighbors are very close on all sides. We love our neighbors and would love to spend time with them but we have young children whom we will continue to worry about until they are 50 years old :) Also, our neighbors have pets. Even though they are very friendly, our children have not been exposed to many pets and we are worried about how they will interact with them without a fence and if it would be safe.

* Again, I am not claiming to have an educational background in the field, so please correct me if you feel fit, but I do not see any drainage issues being solved by removing fences, sheds, trees, etc. The flow of water when we first moved in was rather strong but has quickly been resolved as our neighbors up the street have completed their landscaping, planted grass and trees, and taken measures to ensure that water flow down the correct path. We feel that as the rest of Vine Cliff is established that water will run similar to that between the houses on Duckhorn and Fieldstone with only a minor drainage easement. Water is always going to run downhill and it would be crazy to say that it doesn’t happen but we do not feel that 1) it would not change by removing any landscaping and 2) that it would be enough water to classify it as a major easement as opposed to a minor easement.

* That being said, we are unclear about the definition of a major vs. minor drainage easement. We contacted the city public works and engineering services when we received our first letter and the stakes were placed in our yard. We were informed that the easement was put in place to accommodate the 100 year flood. When reviewing this information on the RapidMaps it indicates that the natural water flow actually goes through the entire subdivision and starts in the SouthWest corner. This map was updated in 2015 after the houses were already here and after the easement was signed in 2013. It does not indicate that Duckhorn or Vinecliff is in this path with the exception of a few homes where it crosses directly through their yard. I have attached this along with this letter.

* We were also told we could not have a walk out basement with the property that we chose. We were told that to change the slope to the extent in which would be needed in order to have a walk out basement, would cause water problems. Again, maybe the lots on Vinecliff are different, and I am not an engineer, but I did watch as the houses were being built. Several trucks of dirt were removed and retaining walls were built to create beautiful but flat yards. This had me worried from the start on how it was going to effect the drainage of the area. It is crazy to me that they could change the lots that much without putting drainage tiles or something in order to protect the homes on that side from taking the hit with water flow. However, removing our obstructions now is not going to make that any better. It seems to be that it would fall under the category of a builder issue not a neighborhood issue and should have been considered before houses were built.

* In addition, Article 3, Section 2 of the Elks Crossing Covenants signed and sealed by the Register of Deeds, Pennington County reads as follows:
"All owners must keep the area of these easements free from improvements and obstructions including any buildings, walls, hedges, trees, and shrubs which could interfere with effective drainage. It is the responsibility of each owner to prevent soil erosion and accumulation of sediment on his or her Lot and to see that his or her Lot is maintained, mowed and raked where the Major Drainage Easement is located, all as required to allow the drainage improvements to function properly regardless of whether any improvements have been made to the Lot."

Again, the inconsistency in wording to not include the words "but not limited to" or reference to fencing at all is misleading. I do not believe anyone should have to move anything including sheds or trees. It is absurd to me that you can reference the same thing throughout paperwork and have different wording everywhere to include things on one reference but chose to leave them out on others. I truly believe it is a way to confuse people and have it "included in the paperwork" without having to be upfront about any of it.

With all of this stated, we hope that you can see how this isn’t a matter of black and white print on a plot. We understand that we signed papers indicating that we understood this matter with the true feeling that we did. We felt like we were entering into an agreement that we could honor and have done everything to our knowledge to do that. So our biggest question is what do we do now? We are reaching out to our neighborhood and community to help us to resolve this. Hoping and praying that they look at the facts and circumstances and realize that this isn’t just a group of people who purposely and maliciously went against an ordinance. However, following the ordinance now is going to be at a great financial and emotional cost to all of us. One in which we are not ready to just give up on and are hoping that we can get some help with this.

We are willing to work with neighbors, surveyors, and builders to create a system that works for everyone. Suggestions have been made to raise our fences to allow for free flow of water along the back property lines without obstructions and are open to any other suggestions or recommendations that the city or neighbors could provide. We know that our best chance of getting this solved is by working together with the city, builders, and neighbors. We want and encourage to hear both sides of the story and are looking forward to hearing from the city on ways that we can resolve this issue. Thank you for your time, help, and consideration of this matter.

Sincerely,

Lance & Karissa Steiger

Additional Contact Information:
House Number: (605) 721-7456
Email Address: kiblsteiger@icloud.com
We chose to build our home in this area due to the upcoming family oriented area and the safety of the neighborhoods around here. If we knew in advance that we would be losing ten feet of our back yard we probably would have reconsidered where we built our home. We wanted to live in an area that was safe and comfortable for our family. We use our back yard for entertaining and family gatherings. We feel that when all the construction on Duckhorn and Vinedcliff is completed that the runoff will not be an issue any more. The houses between Fieldstone and Duckhorn had these exact same issues just one year ago. Once all the yards were laid, there were NO more problems. We would like to see this development finished before any rash decisions are made about a drainage ditch.

Thank you.

The Silbernagels

Terry Silbernagel & Denise Wermers Silbernagel

RECEIVED

OCT 12 2016

RAPID CITY COMMUNITY PLANNING & DEVELOPMENT SERVICES
To whom it may concern,

We are writing this in regards to the major drainage easement in the rear side of our yard. Our house was our first major purchase as a couple and we find this house to be our forever home. However we find this nearly impossible to live here forever with having a drainage in our back yard that basically cuts our yard in half. We purchased our home with the intent of building a fence for our dog to roam freely. We were given no prior notice of the easement. We find this very upsetting that this is taking place. We hope to come to a resolution that would make everyone happy.

Sincerely,

Matthew and Allison Birrenkott

RECEIVED
SEP 19 2016
RAPID CITY COMMUNITY PLANNING
& DEVELOPMENT SERVICES
Office of the City Attorney
300 6th street
Rapid City, SD. 57703
Attn: Ms. Jessica Rogers
Re: Drainage encroachment- 4514 Duckhorn Street

Good Day, Please note the enclosed request to vacate the drainage easement on my property. As the photos show, while you state, I am “encroaching on the easement” the restriction of any water flow is still unclear as the full build out of homes to the east of my property is not yet complete.

As the first home in the street, I was poised with a landscaper who was poor at best, thus a swamp pit was created in the north-east corner of the lot. This was created by the new homes around me raising their lawn elevation. Thus I installed a water management area in this corner to do the very thing you are asking for, create a drainage plane that allows for free movement.

Secondarily, I have created a gravel pad (future fire pit) that is no impedance to any water movement from the front to the rear of mine or my southern neighbor’s property. Thus allowing it to easily move into the so called drainage area. The plan I have is to add a rock drainage area in the joining area of my neighbor’s yard..still to be established.

So I am challenged by the legal need here. If this drainage easement was so needed, then why did you not require the developer to install a 20’ wide rock drainage area? In the enclosed data from the city of Lincoln Ne., the one that came up on searching major drainage easements, they require 60’ wide. Additionally, I am understanding that a major drainage easement is:

“A readily recognizable natural or improved channel” (taken from the chapter 2.05/ City of Lincoln Nebraska, Stormwater drainage and design standards). The lots on block 9 have neither.

I am certain this originally is due to the negative impact on lot sales. Now you are punishing homeowners that are making improvements to support the lot elevation changes already done by the developer.

I no longer have any of the closing document’s to show the area you are suggesting, but have discussed these concerns with my neighbors. I only wish to do what is right and legal, and am requesting your signed approval for myself and block 9 neighbors to vacate the drainage easement requirements.

Additionally, I have joined with my neighbors in our group letter campaign to the city to request clarity on this issue. It is unclear to me how a fence, solid or chain link, a fire pit, or landscaping that is in place could be such an issue with water flow. We are not in a flood plain, have a very dry climate, and the elevation change and storm sewers that we have should handle any major downpour.

Please help me understand the design dynamics and lets have a conversation on how to best work thru this concern.

Thank you

Best Regards

Roger Thompson

4514 Duckhorn Street

RC, SD. 57703

RECEIVED
SEP 19 2016
RAPID CITY COMMUNITY PLANNING & DEVELOPMENT SERVICES
To: Community Planning and Development Services
City of Rapid City
300 - 6th street
Rapid City, SD. 57701

VACATION of Drainage Easement at: ELKS CROSSING, Block 9, lot 13

We are proposing to vacate the drainage easement on the above described property. We have minor landscaping, one tree, three shrubs and a 10 x 14 gravel pad impeding on the supposed major drainage easement. Please allow us to retain the areas already developed as they are.

In order to act on this proposal, the City of Rapid City needs to have comments on any utility affected. I would appreciate your prompt consideration of this proposal as only the drainage easement is in question. Your comments may be made on this letter and returned to Community Planning and development Services. City of Rapid City, 300 - 6th street, Rapid City, SD. 57701

Best regards,

Roger Thompson
4514 Duckhorn Street
Rapid City, SD. 57703

RECEIVED
SEP 19 2016
RAPID CITY COMMUNITY PLANNING & DEVELOPMENT SERVICES
Chapter 2.05

STORMWATER DRAINAGE DESIGN STANDARDS

The Department of Public Works and Utilities is assigned responsibility for administration of these design standards

Section 1. DEFINITIONS

Best Management Practices: Practices that reduce pollutants in stormwater. Post Construction BMPs (or permanent BMPs) may include structural or non-structural solutions that are used to prevent or control pollutants in storm water and minimize runoff to streams and lakes. Examples of Structural BMPs include permanent features of the landscape such as bioretention, extended detention ponds, permeable pavement and retention ponds. Examples of Nonstructural BMPS include a schedule of activities, prohibition of practices and maintenance procedures. (Added 12-14-15; Resolution No. A-89425).

Conveyance structure: A pipe, open channel, or other facility that transports runoff from one location to another.

Drainage criteria: Specific guidance provided to the engineer/designer to carry out drainage policies. An example might be the specification of local design hydrology ("design storm").

Drainage plan: The plan that an engineer/designer formulates to manage urban stormwater runoff for a particular project or drainage area. It typically addresses such subjects as characterization of site development; grading plans; peak rates of runoff and volumes of various return frequencies; locations; criteria and sizes of detention ponds and conveyances; measures to enhance runoff quality; salient regulations and how the plan addresses them; and consistency with secondary objectives such as public recreation, aesthetics, protection of public safety, and groundwater recharge. It is usually submitted to regulatory officials for their review.

Existing Urban Area: Those areas inside the corporate limits of the City of Lincoln as well as those areas outside the corporate limits having a zoning designation other than AG Agriculture and AGR Agricultural Residential, as defined by the Lincoln Municipal Code. (Added 5-10-04; Resolution No. A-82748).


Floodplain planning/floodplain management: Technical and nontechnical studies, policies, management strategies, statutes and ordinances that collectively manage floodplains along rivers, streams, major drainageways, outfalls, or other conveyances. The federal government normally plays a major role in floodplain planning and management, whereas in urban stormwater management and design, local governments dominate the decision-making process.

Stormwater Drainage
Chapter 2.05 - 1
Major drainageway: A readily recognizable natural or improved channel that conveys runoff that exceeds the capacity of the minor drainage system, including emergency overflow facilities.

Major system: The portion of the total drainage system that collects, stores, and conveys runoff that exceeds the capacity of the minor system. The major system is usually less controlled than the minor system, and will function regardless of whether or not it has been deliberately designed and/or protected against encroachment, including when the minor system is blocked or otherwise inoperative. It may be collinear with, or separate from, the minor system. It should be noted that there are those who object to the use of the terms “major” and “minor” to describe portions of the drainage system, perhaps because these terms imply that the minor system is less important. Other terms (primary system, convenience or basic system, overflow system, major/primary drainage ways, subordinate system, etc.), have been suggested. Major/minor are used in this Standard because they seem to be the most widely used terms.

Minimum Corridor: Minimum flood corridor shall mean the existing channel bottom width plus 60 feet plus six times the channel depth and the corridor will be centered on the channel, as shown in Figure 1 below, or aligned such that the corridor follows the natural flow of flood waters. (Added 5-10-04; Resolution No. A-82748).

Minor system: The portion of the total drainage system that collects, stores and conveys frequently-occurring runoff, and provides relief from nuisance and inconvenience. This system has traditionally been carefully planned and constructed, and normally represents the principal portion of the urban drainage infrastructure investment. The degree of inconvenience the public is willing to accept, balanced against the price it is willing to pay, typically establishes the discharge capacity or design recurrence frequency of a minor system. Minor systems include roof gutters and on-site drainage swales, curbed or side-swaled streets, stormwater inlets, underground system sewers, open channels and street culverts.

Multiple-purpose facility: An urban stormwater facility that fulfills multiple functions such as enhancement of runoff quality, erosion control, wildlife habitat, or public recreation, in addition to its primary goal of conveying or controlling runoff.
New Growth Areas: Those areas outside the corporate limits of the City of Lincoln and zoned AG Agriculture and AGR Agricultural Residential as defined by the Lincoln Municipal Code. (Added 5-10-04; Resolution No. A-82748).

Outfall facility: Any channel, storm drain, or other conveyance receiving water into which a storm drain or storm drainage system discharges.


Post Construction Water Quality Rainfall Event: The rainfall event that is equivalent to a depth of rainfall which is not exceeded in a set percentile of the historic runoff producing rainfall storm events. This percentile is provided in City of Lincoln Municipal Code Chapter 28.03. The rainfall depth related to the percentile is identified in Chapter 8 of the City of Lincoln Drainage Criteria Manual. The depth of rainfall is used in hydrologic calculations to determine the volume of water to be detained. (Added 12-14-15; Resolution No. A-89425).

“Risk-based” design: Design of urban stormwater management facilities not only on the basis of local standards, but also on the basis of the risk (cost) of the flow exceeding a selected design. Virtually all stormwater management projects have some component of risk which is inherent in selection of a design return frequency. Risk may also account for special upstream or downstream hazards that would be posed by adherence to some recommended standard. For example, the designer of culverts in a subdivision might choose to upsize particular storm drains from a 10-year to a 50-year basis to protect properties, or to make other provisions to secure emergency discharge capacity.

Special structures: Those components of urban drainage systems that can be thought of as “features” or “appurtenances” such as manholes, inlets, energy dissipators, transitions, channel slope protection, storage facilities, and outlet works.

“Standard-based” design: Design of urban stormwater management facilities based on some specified set of regulatory standards. An example is the stipulation in local drainage policies that culverts for a given subdivision are designed to pass the 50-year flood before road overtopping.

Storm drain: Often buried pipe or conduit, also referred to as storm sewer that conveys storm drainage, also includes, curb & gutter, grate & curb inlets, swales, open channels, and culverts.

Stormwater detention: The temporary storage of stormwater runoff in ponds, parking lots, depressed grassy areas, rooftops, buried underground tanks, etc., for future release. Used to delay and attenuate flow, normally drained between storms.

Stormwater retention: Similar to detention except the facility may have a permanent pool of water or wetland that does not drain between storms.
To Whom It May Concern:

We have received a letter from the city of Rapid City stating we need to move our fence in 10 feet. Our copy of the Declaration of Covenants, Conditions and Restrictions for Elks Crossing; Article Three: Easements; Section 2-Drainage Easements; dated July 22, 2013, does not include fences. (Copy of aforementioned Article enclosed.) We contacted our builder, Chad Zandstra, on July 6, 2016, informing him of the letter. On July 8, 2016, we received a text from Chad stating that his copy of the covenant does not say anything about fences. In the process of building our home, we were never informed of a drainage easement. We have invested over $5,000 in sod, sprinkler system and chain link fencing in the contested easement area. If we are forced to move our fence, we will lose approximately one third of our back yard. We are asking to vacate the easement.

Sincerely,

Clark and Joleen Ericks
4522 Duckhorn St.
Section 17. Hook Up Fees. There may be water and/or sewer hook up fees demanded by the city of Rapid City. These fees will be the responsibility of each Owner, or their builder, and shall be timely paid.

Section 18. Lot Division. No Lot shall be divided or subdivided and no portion of any Lot other than the entire Lot shall be transferred or conveyed for any purpose. The provisions of this subsection shall not apply to the Declarant and, further, the provisions hereof shall not be construed to prohibit the granting of any easement or right-of-way to any utility, municipality, political subdivision or public body or authority.

Section 19. Garage Doors. Garage doors and the doors of any other storage room or the like shall be maintained in a closed position whenever reasonably possible.

Section 20. Mailboxes. All mailboxes shall be clustered as designated and located by the Architectural Control Committee.

Section 21. Storage Sheds and Outbuildings. All storage sheds and outbuildings constructed upon any Lot must match the colors and construction of the Dwelling Unit on the Lot including, but not limited to, the appearance, colors and composition of the siding and roofing materials.

Section 22. Lawful Use. All property and structures shall be used only for lawful purposes as are otherwise permitted by these Covenants.

ARTICLE THREE: EASEMENTS

Section 1. Public Utilities. Easements for the public utilities over and across the lots shall be those shown upon the recorded plat and any additions or revisions thereto. There shall also be sewer and power easement over and across the lots for purposes of serving each Lot with such utilities.

Section 2. Drainage Easements. As shown by the plat and miscellaneous documents for the Properties, there are drainage easements for surface water drainage along the lots and a Major Drainage Easement within the subdivision. All owners must keep the area of these easements free from improvements and obstructions including any buildings, walls, hedges, trees and shrubs which could interfere with effective drainage. It is the responsibility of each owner to prevent soil erosion and accumulation of sediment on his or her Lot and to see that his or her Lot is maintained, mowed and raked where the Major Drainage Easement is located, all as required to allow the drainage improvements to function properly regardless of whether any improvements have been made to the Lot.

Section 3. Joint Driveways. Any driveway which is built or installed as part of the original construction upon the property and which is situated on the dividing line
To Whom It May Concern-

First of all, I would like to take a minute to thank you for your time and consideration on this matter. It has been a long process of gathering information and documentation but we have appreciated the help that we have received on many levels.

We have included the requested documentation as attached. Kyle Tremloar from KTM Designs along with his team have provided the "exhibit A". Each applicant has attached a completed application, as well as several letters and photos to help document our concerns. We have applications from the following properties:

Legal Descriptions of Lots: Lots 5, 1, 13, 12, 11, 10, 9, 8, 7, 6, 5, 4, 3, 22, 25, Block 9, Elks Crossing, Section 16, T 1 N, R 8 E, BHM, Rapid City, Pennington County, South Dakota.

*** Please note that lots 16, 17, 18, and 28 are currently unoccupied.

We are requesting to vacate (or change the criteria to that of a minor drainage easement) the major drainage easement located between Duckhorn and Vinecliff. We have been notified that all encroachments in the easement will have to be removed. We are requesting that the city make an exception based on the evidence as follows and allow already created and requested structures to remain in the easement. This includes but is not limited to fences, sheds, playground structures, patios, etc. We feel that the following evidence supports our request:

- Kyle Tremloar from KTM Designs along with his team have provided a letter suggesting that there are options that would provide safe and adequate draining solutions.
- Several property owners feel that they were misled to believe that they could build fences, ext. in the easement. Builders and contractors did not inform homeowners of the easement prior to purchasing and building in the easement. Builders have been present and have even provided the encroachments in the easement.
- The major drainage easement is NOT recorded on the individual plot surveys given to home owners prior to purchasing lot and at closing.
- The neighborhood ordinances do not exclude fences from being built into the easement.
- The wording on several documents is inconsistent and unclear.
Currently, no backup of water or damage has been caused (to our knowledge) by the current obstructions. We have video of the runoff after major storms that we may provide upon request.

Overall, we are requesting that the city take a fair look at our situation. We would encourage and welcome anyone who would like to take a first hand look at the issue at any time. Please let us know if we can provide any more information that would help to make a more informed decision. Again, thank you for your time and help with resolving this situation.

Sincerely,

Karissa Steiger

Karissa Steiger
All of the Vacation of Easement denials have been appealed. November 1, 2016 is PW and November 7, 2016 is City Council correct?

Thanks,

Fletcher Lacock, AICP
Planner III - Current Planning Division
City of Rapid City, South Dakota
Community Planning and Development Services
605.394-4120

From: Karissa Dunn [mailto:klblsteiger@icloud.com]
Sent: Monday, October 10, 2016 9:12 AM
To: Lacock Fletcher <Fletcher.Lacock@rcgov.org>
Cc: Fisher Vicki <Vicki.Fisher@rcgov.org>; Modrick Lisa <Lisa.Modrick@rcgov.org>; Lance Steiger <Lance.Steiger@westriver.coop>
Subject: Re: Vacation of a major drainage easement - Elks Crossing

Mr. Fletcher,
We will to appeal to the city council concerning the vacation of the major drainage easement (File #16VE020, 16VE021, and 16VE022). Thank you for your time. Please let us know if you need anything else from us in moving forward. We would like to submit additional documentation refuting the points in the denial letters before it is sent to the next Committee. Thank you!

Karissa Steiger

Karissa,

Attached are the memo’s for the three Vacation of Major Drainage Easement application requests (File #16VE020, 16VE021, and 16VE022). The requests have been denied. As noted in the memo, there is a 10 day appeal period. Please let me know if you have any questions. You can reply to this e-mail to appeal the denial of the vacation requests.

Thanks,

Fletcher Lacock, AICP
Planner III - Current Planning Division
City of Rapid City, South Dakota
Community Planning and Development Services
605.394-4120
September 19, 2016

Community Planning & Development Services
City of Rapid City
300 Sixth Street
Rapid City, SD 57701

RE: Rear Yard Drainage Swale at Duckhorn/Vinecliff
KTM Project No. 12-0645

Dear Review Engineer:

The design of the rear yard lot line drainage swale (ditch) situated between Duckhorn Street and Vinecliff Drive required (per the City’s rules) a major drainage easement. The easement width was based on a swale width which accounted for the 100-year flow rate and the required one foot of freeboard. A 20 feet wide drainage easement, centered on the rear lot lines, was provided to accommodate the swale.

At least a few of the lot owners with properties situated along the swale have since installed fences – primarily of the privacy fence variety – and other obstructions along their property’s rear and side lot lines. The fences, as constructed, will almost certainly partially obstruct/block the flow of storm runoff in the swale. City staff has reportedly ordered the property owners to remove their fences from within the drainage easement.

It is my opinion the 20 feet wide major drainage easement is overkill and need not be so wide. Since the 20 feet width is the City’s minimum standard, no objection was made during the design phase. However, on behalf of the impacted property owners, we are now revisiting the easement situation and requesting some accommodation be made for the fences.

Please consider the drainage area the swale accommodates is not very large and the expected storm runoff flow rates in the swale are not especially significant. This is not to say there is no flow in the swale...there is, but the amount of flow seemingly doesn’t justify such a wide easement.

The width of flow at the 100-year normal depth of flow in the upstream swale segments is no more than five (5) to seven (7) feet, and no more than 10 feet at the very downstream end of the swale. Also, since the 100-year normal depth in the drainage swale is less than one foot, the additional one foot of freeboard required provides a channel capacity at least 15 times greater than what is
needed in the upstream swale segments and seven (7) times greater than what is needed in the downstream swale segments. For this situation, the one foot of freeboard seemingly results in an unreasonable easement width and deprives the property owners the full benefit and use of their property.

All things reasonably considered, it appears there may be room for compromise with regards to the fences. In an effort to somewhat salvage the situation, we propose the following three (3) alternatives. Each of the alternatives will allow the generally unimpeded flow of storm runoff in the drainage swale while allowing the property owners to enjoy as much of their rear yard area as practical. In each alternative the drainage swale will perform generally as designed.

**Alternative No. 1:** Grant an exception to allow fences in the easement. A condition of allowing the exception could be the requirement the fence panels/ fence material (everything other than posts) located in the easement be elevated a minimum distance above the existing ground elevation at the rear property line/ swale centerline. The vertical clear space (at the swale centerline) could be dimensioned to provide an adequate opening to accommodate the design flow rate. The existing fences would need to be adjusted to provide the required vertical clear space. This alternative allows for a single rear property line fence system between properties.

**Alternative No. 2:** Reduce the width of the drainage easement consistent with the design width of flow and forgo the need for freeboard. The drainage easement does not need to be as wide as was platted. Note with this alternative the easement width would get incrementally larger moving downstream. The enclosed exhibit shows the flow width at select property line locations. With this alternative the existing fences would need to be relocated outside the easement consistent with the revised easement widths.

This alternative would promote dual/ opposing rear property line fence systems. The positioning of the rear fences may not be in straight alignment when looking upstream or downstream. In addition, this alternative introduces swale maintenance (mowing) concerns. The individual property owners are tasked with mowing the swale. Since the swale would be located outside of the lots’ fenced areas, it’s possible the swale mowing could be neglected. It’s possible the homeowner’s association would need to be involved in maintaining the swale.

**Alternative No. 3:** Reduce the width of the easement and grant an exception to allow fences in the easement. This alternative is a combination of the first two alternatives and provides maximum benefit to the property owners.
Finally, we believe it would be wise to keep the major drainage easement in the area surrounding the drainage grate/inlet, but the easement accommodating the swale could be reduced or an exception could be granted allowing fences within the easement with no adverse impact to the performance of the drainage swale. We hope you’ll give these alternatives fair and honest consideration and look forward to your decision.

Thank you for your assistance with this matter. If you have further questions or comments, please do not hesitate to contact me at (605) 791-5866 or gregb@ktmdsi.com

Sincerely,
KTM DESIGN SOLUTIONS, INC.

Gregory T. Barbeaud

Enclosure
August 10, 2016

Community Planning & Development Services
City of Rapid City
300 Sixth Street
Rapid City, SD 57701

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KTM Project No. 12-0645

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Sincerely,
KTM DESIGN SOLUTIONS, INC.

Gregory T. Barbeauld

Enclosure
X:\600-649645 Duckhorn\Drainage\Letter Easement Vacation Request AUG2016.docx
EXHIBIT 'A'
REAR YARD DRAINAGE SWALE AT DUCKHORN / VINECLIFF
SHEET 2
AUGUST 10, 2016

NOTE: DEPTH SHOWN ON CROSS SECTIONS WOULD ROUGHLY EQUAL THE CLEAR SPACE REQUIRED ON PRIVACY FENCE.
Case No. 16VE020

Existing Legal Description:

Lots 3 thru 15 of Block 9 of Elks Crossing, all located in Section 16, T1N, R8E, BM, Rapid City, Pennington County, South Dakota
16VE020
Duckhorn Street

Subject Properties

Future Land Use Categories
- Low Density Neighborhood
- Urban Neighborhood
16VE020
Duckhorn Street

Major Street Plan

- Subject Property
- Collector
- Principal arterial
- Proposed minor arterial
- Rapid City Limits
- Minor arterial
- Proposed collector