September 6, 2016

Rapid City Common Council
300 6th Street
Rapid City, SD 57701

Re: Three Bies Sisters LLP

Dear Council Member:

Attached is a letter from City Engineer Dale Tech concerning the proposed extension and development of South Elm Street. Mr. Tech's letter speaks for itself, but I feel the need to highlight what appears to be a significant and very expensive City practice.

In 2005, a local developer received a variance for street improvements related to the Kensington Heights subdivision in the area of South Elm Street. The variance included a waiver of right to protest (WROP) agreement for future improvements. The WROP has now transferred to the 22 homeowners in that area. If the City wants to exercise the option of an assessed project, the cost to each homeowner will be approximately $11,000. This, for a road they don't need to access their neighborhood. The idea of an assessed project seems unfair and unreasonable. It seems the most likely resolution to this issue is for the City to fund the developer's portion of the road improvements.

Other funding options have been identified in Mr. Tech's letter, but that's not really the point of this letter. The point is, the City Council is in a position to grant variances whether it be for street improvements, sidewalks or a host of other things required of developers. Some of these variances have long term consequences, especially concerning street improvements. In the above example, the funds will likely come from Rapid City taxpayers in one form or another. This, in my opinion is bad policy.

The situation involving the above subdivision needs to be resolved as soon as possible, but that will do nothing to fix the larger issue. Solving the larger issue will require commitment, discipline and courage. Simply stated, when variances are considered, the Council must have in place a policy that guarantees funding for future road improvements and protects the taxpayers at large. There may very well be a logical and reasonable example of an assessed project related to one of the variances, but if not, perhaps the developer should either pay for the road improvements...
when they are required or post surety to cover their portion of the funding in the future. Whatever mechanism we choose, it must not transfer the cost onto taxpayers.

Even though I view this issue to be largely controlled by the City Council, I would be happy to investigate alternative practices used by other jurisdictions.

If you have any questions, or require further information on this topic, please do not hesitate to contact me.

Sincerely,

Steve Allender, Mayor
Rapid City, South Dakota

cc: Rapid City Common Council
Dale Tech, City Engineer
August 24, 2016

Dear Mayor Allender and members of City Council,

The City has been approached by representatives of the Three Bies Sisters LLLP property located along the east side of Elm Avenue to discuss the construction of approximately 800 feet of Elm Avenue from its current southern terminus near Fieldview Drive. In 2005, the City approved a Final Plat for Phase Two of Kensington Heights Subdivision which included 22 residential lots located along the west side of Elm Avenue, opposite a portion of the Three Bies Sisters LLLP property. In addition, the City Council approved a Variance to the Subdivision Regulations to waive the requirement to construct 575 feet of Elm Avenue as it abuts the property since it was not needed to access Phase Two of Kensington Heights Subdivision and since a majority of the right-of-way would be dedicated from the Three Bies Sisters LLLP property in order to align with the existing Elm Avenue right-of-way located north of the property and to conform to the placement of the street as shown on the City’s Major Street Plan, which classifies the street as a minor arterial street. A stipulation of approval of the Variance to the Subdivision Regulations required that the property owner (developer) execute a waiver of right to protest any future assessment for the improvements along this portion of Elm Avenue. The associated Final Plat also included the dedication of a pie shape area from the Kensington Heights Subdivision to secure adequate right-of-way for the future street.

Representatives of the Three Bies Sisters LLLP property have indicated interest in creating a residential development on a portion of their property located east of Elm Avenue, opposite Phase Two of Kensington Heights Subdivision. Since the street was not constructed as a part of platting Phase Two of Kensington Heights Subdivision, questions arise as to who is responsible for the construction of Elm Avenue. Please note that Elm Avenue is classified as a minor arterial street on the City’s Major Street Plan, the developer is only responsible to construct the street to collector street standards per the Infrastructure Design Criteria Manual. More particularly, the street must be located in a minimum 100 foot wide right-of-way and constructed with a minimum 36 foot wide paved surface, curb, gutter sidewalk, street light conduit, sewer and dual water mains. Any over sizing beyond collector street standards is typically funded by the City with an oversize agreement with the Developer.

The fundamental issue in this situation is that a previous developer did not make improvements to Elm Avenue and signed a WORP that has now transferred to 22 single family residences that could be assessed a portion of the cost to improve Elm Avenue if the City chooses to proceed with an assessed project.
During the visit with representatives of the Three Bies Sisters LLLL property, they requested that the City review possible options to assist with the base cost of constructing 800 feet of the street to collector street standards. Upon review, the following options have been identified:

1) Create an assessment project for the street improvement which could require that the current home owners of Phase Two Kensington Heights Subdivision be responsible for a portion of the street improvement cost. The balance of the property located along the 800 foot stretch of street is owned by Three Bies Sisters LLLL and Kensington Heights LLC. This option will likely result in significant concern by the property owners covered by the WORP;

2) Add the street improvement to the Capital Improvement Project list. This may require that other projects be delayed and/or removed from the list;

3) Create a Tax Increment Finance District; or,

4) Use the Utilities Support Fund. This is a revolving fund source and it is unlikely that sufficient funds are currently available to cover the cost of the street.

Please let me know if you have any questions

Sincerely,

[Signature]

Dale Tech-PE/LS
City Engineer
Interim Public Works Department Director
Interim Community Planning & Development Services Director
City of Rapid City