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September 13, 2002

Ms. Karen Bulman
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RECEIVED

SEP 16 2002

Rapid City
 Planning Department

Re: Our File No. 020639
 GCC Dacotah, Inc./Deadwood Avenue Annexation

Dear Karen:

As you know, I represent GCC Dacotah, Inc. I have a copy of your letter to Steve Zellmer dated September 11, 2002. I understand that Steve has discussed this briefly with you over the telephone, but I thought I should write you this letter to further state my client's concerns and some questions that we have which will come up at the Rapid City Planning Commission meeting on September 26, 2002.

I have a copy of the Annexation Study in addition to the Resolution. The Annexation Study at page 4 stated: "GCC Dacotah Cement, the largest landowner, would like to continue their mining/extraction operation . . ." This is not quite accurate insofar as not only would GCC Dacotah *like* to continue its mining operation, it is absolutely critical that it does so, and before the area is annexed, we would like to determine the legal standing of GCC Dacotah's right to mine after any annexation. What is the City's position in this regard? Would GCC Dacotah's right to mine be grandfathered? Does the City contend that GCC Dacotah would need to apply for and obtain different zoning for this mining of sand and gypsum? This would jeopardize GCC Dacotah's operation if required. Please refer to SDCL §§ 11-2-66 and 11-4-30, which were adopted by a special session of the legislature when the State Cement Plant was sold to the current owner. SDCL § 11-2-66 states as follows:

All real property owned, leased, or otherwise held by the State of South Dakota by and through the South Dakota State Cement Plant Commission as of December 28, 2000, is hereby zoned to conform to its use as of December 28, 2000, as if it were owned, operated, and used by a private business, and all applicable municipal and county records shall be revised accordingly.

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SDCL § 11-4-30 states as follows:

All real property owned, leased, or otherwise held by the State of South Dakota by and through the South Dakota State Cement Plant Commission as of December 28, 2000, is hereby zoned to conform to its use as of December 28, 2000, as if it were owned, operated, and used by a private business, and all applicable municipal and county records shall be revised accordingly.

The legislature intended that the property proposed to be annexed was zoned at the time of the sale to conform to its use as of December 28, 2000, which would eliminate the need for any further zoning after annexation. Please let us know your thoughts in this regard.

What kind of zoning and nuisance ordinances are anticipated as stated at page 9 of the Annexation Study? Would GCC Dacotah's current zoning of general agriculture district remain the same after annexation? Would there be a guaranteed change of zoning for GCC Dacotah's property running parallel to the interstate to light industrial and/or commercial? Could GCC Dacotah automatically get its property zoned light industrial/commercial simultaneous with the annexation?

GCC Dacotah needs more details concerning the scope, cost, and who pays for water and sewer services. Right now, GCC Dacotah is not prepared and has no plans to develop its property, which is proposed to be annexed. When last approached by the City to volunteer for annexation, GCC Dacotah's response was that in order to volunteer for annexation, it would need to have the City pay for and provide water and service lines underneath the interstate highway and also a booster pump and reservoir or water tower so that GCC Dacotah's property would have adequate water pressure. With regard to water and sewer service, some of the questions that we have are as follows:

1. I understand that a Mr. Farrar is pushing the current proposal to annex because he wants to develop his property or has a buyer for his property who wants to develop it. If he proceeds to develop his property, will the water and sewer lines connecting underneath the interstate highway be just large enough to accommodate Mr. Farrar's development or will such lines underneath the interstate highway be installed to adequately handle all of the 1,031 acres being annexed?
2. Will the City pay for the water and sewer lines underneath the interstate highway which will connect to the 1,031 acres being annexed, or will the property owners have to pay for it?

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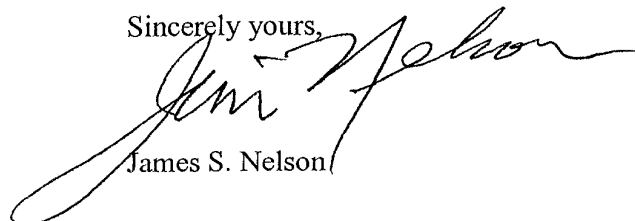
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3. At page 4 of the Resolution, it is stated that the City may choose to participate in the cost of constructing all or any part of water and sewer facilities. Will the City pay for a booster pump and reservoir or water tower?
4. The Annexation Study at page 5 indicates that it will cost \$100,000 for an overlay of Deadwood Avenue, and if complete reconstruction is required, it would cost approximately \$3,080,000. Who would pay for these improvements? I understand the South Dakota Department of Transportation is planning to construct a new exchange from the interstate at Exit 55. GCC Dacotah currently has a haul road going from its sand mining operation, and this route may need to be altered due to this new exchange, and I presume there would be no problem with the City agreeing to a change of the haul route. Further, would you anticipate any problem in the future if GCC Dacotah's property is developed adjacent to the interstate where we would need a service road running parallel to the interstate? Would there be any problem with dedicating such street to the public?

Right now there is no community of interest between GCC Dacotah and Mr. Farrar's property since GCC Dacotah is not currently ready to develop its property. If Mr. Farrar is anxious to develop his property, why shouldn't the City just annex the Farrar property? Why not just annex the property west of Deadwood Avenue? If annexation is based upon a community of interest, I am wondering why the property to the east of GCC Dacotah's property adjacent to the interstate, which includes considerable development, is not going to be annexed. It seems that this property should be annexed into the City along with everyone else. As I look at the map of the proposed annexation attached to the Annexation Study, it indicated certain pockets of land that are left out of the property to be annexed. Why are these properties left out? As one looks at the map, it would be the property in front of the Harley Davidson and running parallel along Interstate 90. Unless there is some reasonable explanation for leaving this property out of the annexation, one could claim that it is being arbitrarily excluded, and it looks like gerrymandering.

In any event, I am writing you this letter as I believe it will expedite the Planning meeting scheduled for September 26, 2002, and give you some advance notice of questions that we have concerning the annexation.

Sincerely yours,



James S. Nelson

JSN:drp
c: Steve Zellmer