Date: May 13, 2011

To: Dale Tech, City Engineer

From: Jennifer Giroux 3213 Dover St. Rapid City, SD 57702

Subject: 3213 Dover St. Residence

This is a summary of current events related to this property. On April 4 2011 I submitted documents:

1) Special exception permit request (without $250.00 fee) and
2) Abatement request

I did this based on guidance received by from Marsha Elkins, Steve Schelske and Mike Schad during meetings held since March 2010. On the day of the submission of these documents I found out that inserting the suggested flood plain information on my property into the registered deed was not a feasible option. In addition all the City staff I had worked with over the year was no longer with the City. I left the special exception permit request and documents with Dale Tech, City Engineer. Abatement request was left with County Commissioner Office and Auditor.

On April 27th I met with a new group of City staff: Dale Tech, Patsy Horton and Wade Nyberg. Mr. Tech shared that he had never really supported the special exception permit approach suggested by Ms. Elkins, Mr. Schelske and Mr. Schad. In further discussion the new group did not collectively see any recourse that would allow my property not to be in violation of 15.32.250. I had a final meeting with Patsy Horton and Brad Solon on May 6, 2011 to see if they considered "unfinishing" my basement an option so that my property would not be held in violation of 15.32.250.

Mr. Solon's interpretation of 15.32.250 and definition of conforming contrasted with the previous Flood Plain Coordinator, Mr. Schelske, perspective and guidance. Mr. Schelske repeatedly defined "conforming" as the lowest **finished** floor is at least 1 foot above BFE. Mr. Solon did not make the distinction of whether or not the lowest floor is "finished" or not. Based on Mr. Solon's interpretation the only recourse that would 1) to elevate my home at least 4 feet or 2) fill in the basement. Both options would cost more than the house is worth. I cannot maintain my home since I can not legally make repairs to my home. Mrs. Horton outlined that next step was to go ahead and re-submit special exception permit based on this new guidance. Mr. Tech would deny the request, but my request would go to City Council for their vote. This would allow me one last possibility for a recourse before pursuing a legal approach.

I hired a law firm in the spring of 2010 when I found out my home was in the flood plain. Unbeknown to me I was in violation of 15.32.250 from the moment I purchased this property and at risk of fine and imprisonment. The law firm agreed to take the case if I was willing to sue all parties involved. I was interested in finding a solution. I did not think suing for damages would solve the problem.

At the heart of the problem is a City ordinance is that is not monitored nor adhered to in an uniform manner. According to Mr. Schelske in a March 30th email the " first ordinance providing for a Flood Fringe Building District was when Ordinance 1434 added article IV to Chapter 9 which became effective on August 25, 1974. This ordinance includes the description of nonconforming uses and does not allow changes to any nonconforming structure to exceed fifty percent of its value at the time of its becoming nonconforming. The description of the properties was an appendix. (and I have not located that yet). The first FEMA description of properties in the flood plain that was adopted by the City became effective November 13, 1981 by Ordinance 2086." I suspect 3213 Dover St, was in the appendix referred to above but this information was never shared with property owners. How would property owners even know this ordinance applied to them?

Based on two different interpretations of conforming, my house either became non-conforming in 1974 or in 1999 when the basement was allowed to be finished. If it became non-conforming in 1974, the Registered Deed document V2, P2049 shows the 3213 Dover property was sold by Pforr to Kertzman in 1975 for $31,000.00. If it became non-conforming in 1999 when the basement was finished, based on tax assessments the value of the 3213 Dover property was valued around $70,000. Based on these different values acceptable structural alteration, addition or repair should have been limited to either $15,500 or $35,000.

According to 15.32.250
A. No structure or use shall be expanded, changed, enlarged or altered in a way which increases its nonconformity, and nay such expanding change, enlargement or alteration shall be conforming.
B. No structural alteration, addition or repair to any nonconforming structure ove the life of the structure shall exceed 50% of its value at the time of its becoming nonconforming use, unless the structure is permanently changed to conforming use.
Section D. of this ordinance also applies to this property. Section F. might allow for a recourse to this situation.

Numerous city permits were issued for 3213 Dover property. These permit document erroneously that the property is not in the flood plain. The City did not require the mandated flood development permits and documentation for any of the permits issued on this property

1996 Mechanical, replace furnace

1999 Bldg, electrical, plumbing Permit. remodeled basement: put in bedroom, bathroom, laundry room, family room, office and 3 egress windows.$6,500,Houdek,
FLOOD PLAIN: NO

Front deck $1,000, Houdek, FLOOD PLAIN: NO

2001 Bldg permit. Back deck Houdek, FLOOD PLAIN: NO

According to 15.320.250 the furnace never should have been replaced back into the basement. The basement should not have been allowed to be finished and putting a bedroom in the basement significantly increased the risk to human life and health. This was discovered last year when I found out that 3213 Dover was in the flood plain and further research shows this property has slipped through numerous City permit cracks over the last 35 years. I brought a house I cannot legally maintain since I cannot legally repair it. I remain willing to try to resolve this situation in a feasible manner so that I can repair this house if I need or sell it if I decide.