



DREAM DESIGN
INTERNATIONAL, INC.

ELDERBERRY BLVD. OVERSIZE REQUEST

ORCHARD MEADOWS SUBDIVISION
YASMEEN DREAM, LLC.
DREAM DESIGN INTERNATIONAL, INC.



DREAM DESIGN
INTERNATIONAL, INC.

CIVIL ENGINEERING • LANDSCAPE ARCHITECTURE
LAND DEVELOPMENT • CONSTRUCTION ADMINISTRATION

January 8, 2014

Mr. Terry Wolterstorff, P.E.
Public Works Director
City of Rapid City
300 Sixth Street
Rapid City, SD 57701

Re: Oversize Request for Orchard Meadows

Dear Mr. Wolterstorff,

In accordance with the Rapid City, SD Code of Ordinances, Chapter 16.16.100 the developers of the Orchard Meadows Subdivision are requesting oversize compensation for the following item:

1. Elderberry Blvd. Pavement Width Oversize

The developer is requesting \$135,701.07 to construct two additional lanes or 26' additional concrete pavement width to increase Elderberry Blvd to a five lane street section or 58' total pavement width. The minimum required commercial pavement section width according to Figure 2-1 of the City of Rapid City Infrastructure Design Criteria, 2012 edition is three lanes or 32' of pavement width. Attached is the engineers estimate for oversize compensation.

If you have any question or need any additional information please contact the office.

Thank You


Kyle Treloar
Dream Design International, Inc.

Cc: Hani Shafai, owner
Dale Tech, Rapid City Engineer



CITY ORDINANCE

** The developer shall not be required to pay the full cost of any highway or arterial street, but shall participate in the cost of these improvements in the amount that a collector street (including all utility and drainage improvements) would cost if situated where the highway or arterial street is located.*

OVERSIZE REQUEST

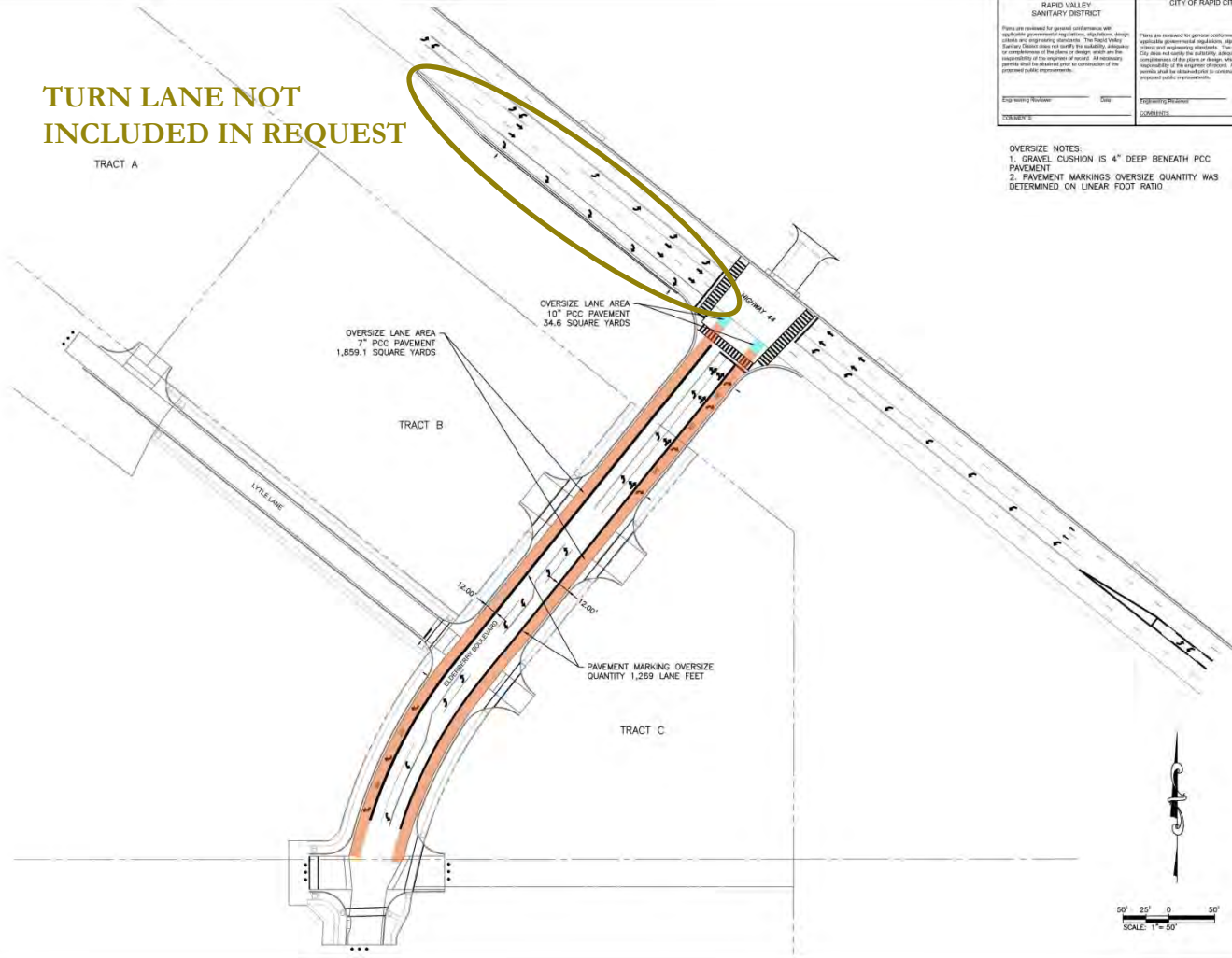
PHASE 1 - ELDERBERRY BLVD. OVERSIZE ESTIMATE

PROJECT: ORCHARD MEADOWS PHASE 1
 DDI PROJECT NO. 12-654
 DATE: 4/10/2014

BID ITEM	DESCRIPTION	UNIT	OVERSIZE QUANTITY	UNIT COST	TOTAL COST
	SURFACING				
	7" PCC PAVEMENT	SY	1859.1	\$ 52.40	\$ 97,416.84
	10" PCC PAVEMENT	SY	34.6	\$ 85.70	\$ 2,965.22
	GRAVEL CUSHION	TONS	395.9	\$ 19.49	\$ 7,716.09
	PAVEMENT MARKINGS	LS	0.1	\$76,025.00	\$ 7,602.50
				TOTAL	\$115,700.65

TURN LANE NOT INCLUDED IN REQUEST

TRACT A



RAPID VALLEY SANITARY DISTRICT		CITY OF RAPID CITY	
<small>Plans are reviewed for general conformance with applicable government regulations, standards, design criteria and engineering practices. The Rapid Valley Sanitary District does not warrant the suitability, appropriateness or completeness of the design which are the responsibility of the engineer of record. All necessary permits shall be obtained prior to construction of the proposed public improvements.</small>		<small>Plans are included to general conformance with applicable government regulations, standards, design criteria and engineering practices. The City of Rapid City does not warrant the suitability, appropriateness or completeness of the design or design which are the responsibility of the engineer of record. All necessary permits shall be obtained prior to construction of the proposed public improvements.</small>	
Engineering Review: _____	Date: _____	Engineering Review: _____	Date: _____
REVISIONS:		REVISIONS:	

OVERSIZE NOTES:
 1. GRAVEL CUSHION IS 4" DEEP BENEATH PCC PAVEMENT
 2. PAVEMENT MARKINGS OVERSIZE QUANTITY WAS DETERMINED ON LINEAR FOOT RATIO

PRELIMINARY FOR REVIEW ONLY

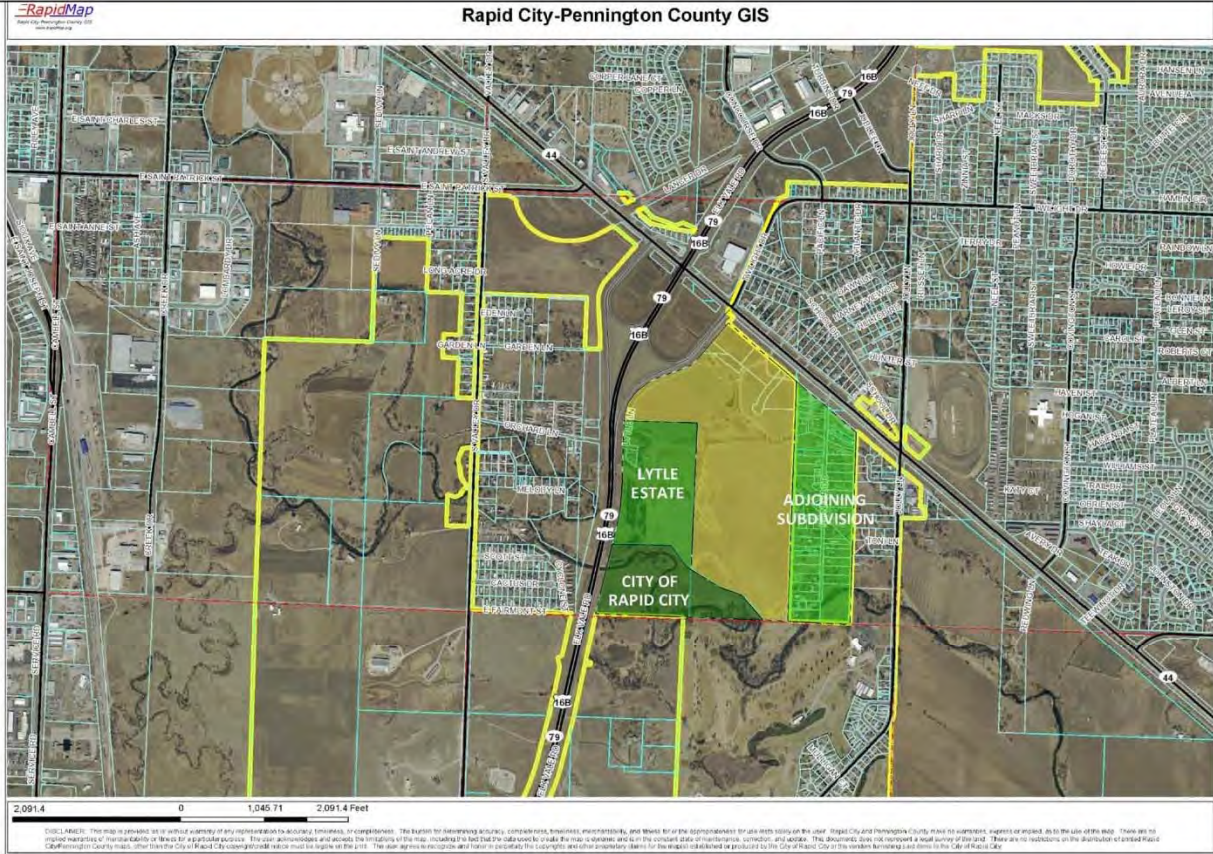
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ORCHARD MEADOWS SUBDIVISION
 PHASE 1 - STREET & UTILITY PLANS

EXHIBIT A

Sheet Number
1 of 1

Rapid City-Pennington County GIS



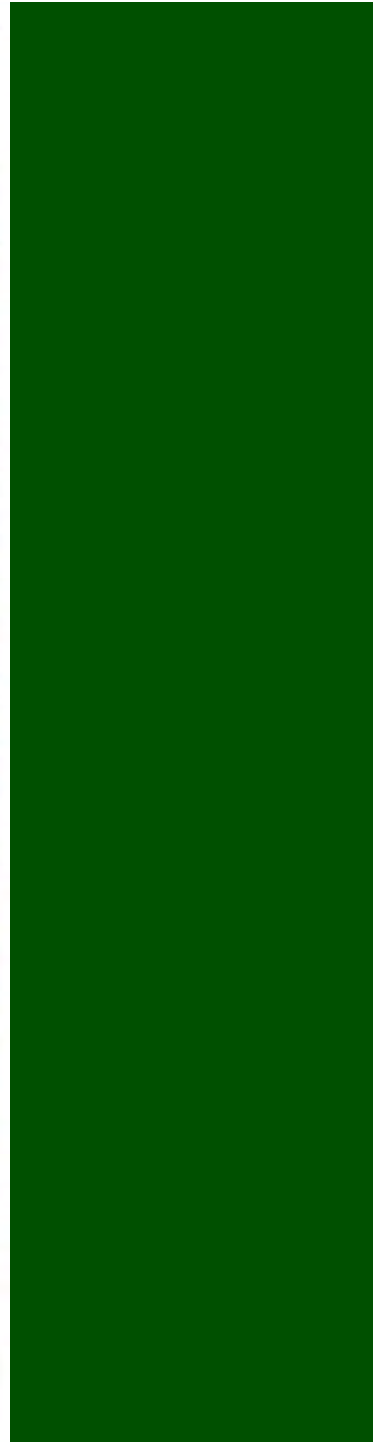
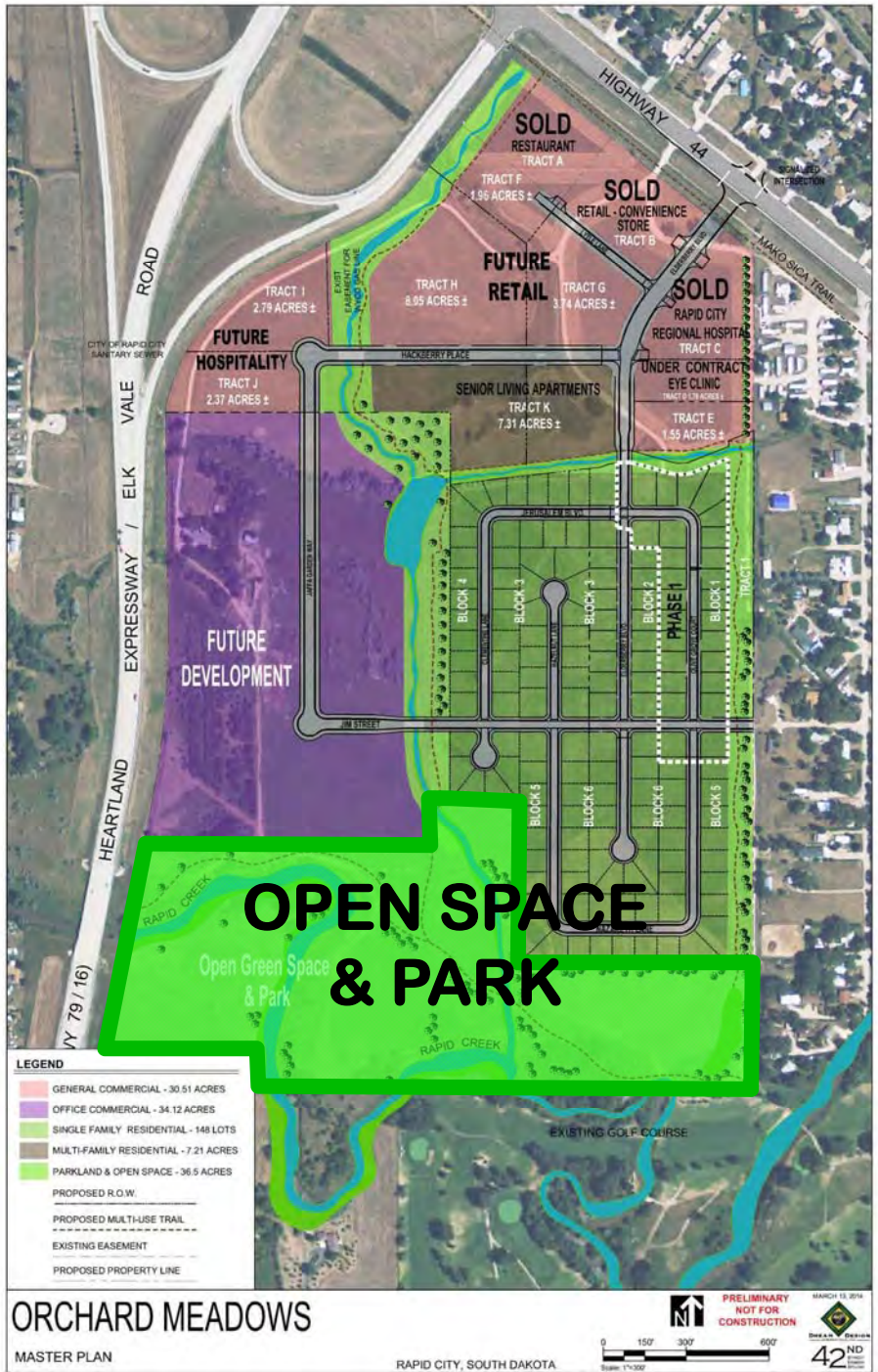
DISCLAIMER: This map is provided as a virtual assembly of information to accuracy, timeliness, or completeness. The map is provided for informational purposes only and should not be used for any legal, financial, or other purposes. The user assumes all responsibility for the use of the map. The map is provided as a virtual assembly of information to accuracy, timeliness, or completeness. The map is provided for informational purposes only and should not be used for any legal, financial, or other purposes. The user assumes all responsibility for the use of the map.

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**PRELIMINARY
 FOR REVIEW ONLY**





CITY OF RAPID CITY
RAPID CITY, SOUTH DAKOTA 57701

Public Works Department
Engineering Services Division

300 Sixth Street
Telephone: (605) 394-4154 FAX: (605) 355-3083
Web: www.rcgov.org

March 19, 2014

Kyle Treloar
Dream Design International, Inc
528 Kansas City Street
Rapid City, SD 57701

RE: Oversize Request, Orchard Meadows, Elderberry Blvd.

Dear Mr. Treloar,

Thank you for meeting with City Staff on Friday March 14, 2014 to discuss the request for oversize payment for Elderberry Boulevard. Based on the information that you previously submitted and the discussion that occurred on March 14, City Staff is denying the request for oversize reimbursement for the following reasons:

1. Elderberry Boulevard is classified as a commercial street and provides internal access to the Orchard Meadows development.
2. The preliminary and final Traffic Impact Analysis submitted by your traffic engineer for Orchard Meadows recommends that "site access (aka Elderberry Boulevard) consist of two lanes in each direction between Walnut Circle and SD 44". The additional lanes (including turn lanes) are for traffic generated by the development and are not necessary for a regional purpose.

Sincerely,
CITY OF RAPID CITY

Dale Tech, PE/LS
City Engineer
cc. Terry Wolterstorff, Ted Johnson



EQUAL OPPORTUNITY EMPLOYER

Section Two – Streets and Right-of-Way

2.1 Street Classification

These Criteria shall govern the planning, design, and construction of all streets within the City of Rapid City and in all areas that are subject to its extra-territorial jurisdiction.

2.2 Definitions

Streets and roads shall be designed, based on the following definitions and anticipated functional classifications:

2.2.1 Alley:

A public way providing a secondary means of access to abutting properties. Alleys shall not provide the only means of access.

2.2.2 Arterial Street:

A street serving the highest traffic volume corridors and major centers of activity. Traffic studies and AASHTO standards shall be used to determine the final design criteria for all arterial streets. These streets are designed with limited access to preserve capacity and enhance safety. Locations for arterial streets are as described on the adopted Major Street Plan.

2.2.3 Collector Street:

A street, which collects traffic from other minor streets and channels it into the arterial street system. Collectors provide for land access and traffic circulation within and between residential neighborhoods and commercial and industrial areas. They distribute traffic movements from these areas to the arterial streets. The cross section of a collector street may vary widely depending on the scale and density of adjacent land uses and the desired character of the local area. Left turn lanes should be considered on collector streets adjacent to nonresidential development.

2.2.4 Commercial Street:

A street intended primarily to facilitate the movement of automobiles and other goods carriers into and within a commercial development area.

2.2.5 Cul-de-sac:

A street having one end connecting to the street system and having one closed end terminated by a turnaround.

2.2.6 Expressway:

A street that is similar to a freeway, but can include some at-grade intersections at cross-streets. Access may be either fully or partially controlled with small amounts of direct land access. Expressways are intended to provide high levels of mobility, rather than to provide local property access.

**COSTELLO, PORTER, HILL, HEISTERKAMP,
BUSHNELL & CARPENTER, LLP**

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April 29, 2014

HAND DELIVERED

Yasmeen Dream, LLC
ATTN: Hani Shafai
528 Kansas City Street
Rapid City, SD 57701

Re: PW040114-29-Request for Oversize

Dear Hani:

This letter is written in response to your request that we review the City's policy and Ordinances, as well as the records and minutes related to the Orchard Lane oversize request and provide an opinion regarding the eligibility of Yasmeen Dream, LLC for oversize reimbursement. It is our opinion that the project does qualify for the reasons set forth below:

(1) 16.16.100 Oversize Facilities subsection B clearly states that "The developer shall not be required to pay full cost of any highway or arterial street, but shall participate in the cost of these improvements in the amount that a collector street (including all utility and drainage improvements) would cost if situated where the highway or arterial street is located. SDCL § 31-1-1 defines a "highway" as "Every way or place of whatever nature open to the public, as a matter of right, for purpose of vehicular travel is a highway." The clear intent of R.C. Ord. 16.16.100 B is that where the construction of a street to comply with City requirements involves the construction of lanes in excess of collector street requirements, "the developer shall not be required to pay the full cost." This is a stand alone section.

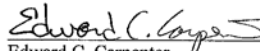
(2) With reference to the dispute regarding whether the multiple uses explored at length at the prior PW and Council meetings serves to authorize oversize reimbursement, we offer the observation that the fact that a single developer owns most of the area served does not appear to be a valid legal basis for denying oversize under RC Ord. 16.16.100 A. Denial on such basis appears to be arbitrary aside from the fact that the road clearly serves multiple uses,

including land designated for future City Park as expressly stipulated by the City when the land was conveyed to the developer.

(3) The City Staff's additional resistance on the basis that the request for oversize is untimely under RC Ord. 16.16.100 C. is not properly before PW or the Council and has been waived. The Oversize Request was submitted in writing to the Public Works Director by letter dated January 8, 2014. The request was denied by letter of Dale Tech dated March 19, 2014, stating the reasons for the denial which did not include timeliness (attached Exh. A). Developer timely appealed this decision by letter to Mr. Tech dated March 20, 2014. The issue City Staff now attempts to raise for the first time after significant time and expense has been incurred by Developer, PW and the Council is not part of the proceedings and is untimely.

I trust the above answers your questions. If you require anything further, please advise. Thank you.

COSTELLO, PORTER, HILL,
HEISTERKAMP, BUSHNELL &
CARPENTER, LLP

BY: 
Edward C. Carpenter

ECC:jb
Enclosures



CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701

Public Works Department Engineering Services Division

300 Sixth Street

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MEMORANDUM

TO: Mayor Kooiker, City Council

FROM: Dale Tech PE/LS, City Engineer

SUBJECT: Orchard Meadows Oversize Agreement

DATE: April 29, 2014

City staff worked with Yasmeeen Dream, LLC's consultant, Dream Design International (DDI), to develop the Oversize Agreement for additional lanes to be constructed on Elderberry Boulevard. City staff has reviewed the costs provided by DDI for the request and has verified that the dollar amount of \$115,700.65 is accurate based on the quotes provided by the contractors hired to do the work.

City Staff recommends denial of the request for oversize reimbursement for the following reasons:

1. Elderberry Boulevard is classified as a commercial street and not an arterial street and provides internal access to the Orchard Meadows development and does not provide access to large areas of land not in the subdivision.
2. The Traffic Impact Analysis submitted for Orchard Meadows recommends that "site access (aka Elderberry Boulevard) consist of two lanes in each direction between Walnut Circle and SD 44". The additional lanes (including turn lanes) are for traffic generated by the development and are not necessary for a regional purpose.
3. City ordinance requires that the request for oversize improvement reimbursement shall be submitted and approved by the City Council prior to final plat approval. The final plat approval for this project occurred in November of 2013 and the request for oversize was received in January of 2014.



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BUSHNELL & CARPENTER, LLP**

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May 2, 2014

HAND DELIVERED

Yasmeen Dream, LLC
ATTN: Hani Shafai
528 Kansas City Street
Rapid City, SD 57701

Re: PW040114-29-Request for Oversize
Our file no. 132073

Dear Hani:

This letter is to supplement paragraph three of our letter of April 29, 2014 addressing the timeliness of City Staff's assertion for the first time in the Staff Report dated April 29, 2014 by City Engineer Tech, that the Oversize Request be rejected on the basis that R.C. Ord. 16.16.100 C requires that the Application for Oversize be submitted and approved prior to final plat approval. Based on our legal research, it is our conclusion that the claim that the Oversize Request be rejected on the basis that it was not presented and approved prior to final plat approval was not timely asserted and can not provide a basis for denial. The Application must be considered on its merits and, as set forth in our April 29 letter, should be granted. The legal basis for the opinion are set forth below:

**ANY OBJECTION THAT THE OVERSIZE REQUEST WAS UNTIMELY HAS BEEN
WAIVED**

The Oversize Request was made by letter to the Public Works Director on January 8, 2014. When denied by Dale Tech on March 19, 2014, the only reasons given were that "Elderberry Boulevard is classified as a commercial street" and that any additional lanes "are for traffic generated by the development." When Dream Design disputed this, the Public Works Committee, on April 1, 2014, sent