

Council Members and Mayor:

There is one last opportunity to avoid suit against the city for unlawfully zoning my property and subsequently refusing to correctively rezone it, either unilaterally or upon application. The city has acted unlawfully for 31 years and counting, including today's act by the floodplain boundary policy committee, whose members (including several council members), each without bothering to read, study or understand the facts or the law they ought to know to even qualify for a policy committee who is charged with analyzing before concluding, voted unanimously within 45 minutes to keep the unlawful policy dating to 1993 that use-zoned as FH (flood hazard) land that is: (1) upstream of Canyon Lake (2) within the 500 year floodplain (3) unlawfully zoned as FH since 1974 by the city that had not been correctively rezoned at the request of property owners prior to the 1993 policy (despite the city's obligation to zone in accordance with the law and correct its own unlawful zoning unilaterally). City employees and committee members today shrugged off the city's 31 year failure to follow state law and city code by concluding the city can be as "stringent" with the FH boundary as it likes. However, labeling unlawful zoning and unlawful policies "stringent" doesn't make them lawful.

The city's intended and actual zoning of my property conflicts with: (1) the federal constitution (e.g. Amendment XIV, § 1); (2) the state constitution (e.g. Art VI, § 18); (3) state statutes (e.g. SDCL 11-6-15); (4) municipal building code (e.g. chapter 15.32); (5) municipal zoning code (e.g. chapters 17.04, 08, and 28); (6) actual zoning (e.g. despite state law, municipal code, comp plan and zoning, and even the 1993 policy, the city's actual zoning doesn't follow any of them - FH Zoning remains the straight line set in 1974); (7) city behavior (e.g. while alleging "public safety" as the basis for its discriminatory policy, the city refuses to follow Title 8, Health and Safety, of the Municipal Code (e.g. 8.16.010 and 8.28.020) on city property).

The city hasn't lifted a finger to promote the "health, safety, or the general welfare of the community." SDCL 11-4-1. The city has only intentionally interfered with the property rights of owners upstream of Canyon Lake through 31 years of unlawful zoning compounded by 12 years of an unlawful targeted downzoning policy attempting to cement a portion of the 31 years of unlawful zoning. It would be surprising that a bad idea by someone on the 1993 policy committee who never read let alone had the ability or desire to understand Chapters 17.04, 08, 28 or any other law could be allowed to turn into an unlawful policy the city refuses to give up without wasting a minimum of tens of thousands of dollars of taxpayer's money, but I am not surprised because I am all too well aware of the stupidity and unequal treatment that abounds in Rapid City government after dealing with its employees for more than two years now. Never mind the base closing, Rapid City government is the number one enemy facing us and has been for decades. Just look at the monumental waste of time the city has caused with this petty matter alone.

It appears at this point that it will take a judge to force city employees to follow federal, state and city laws and federal and state constitutions. So be it. I will sue the city and possibly some employees for damages, which will include the cost of re-engineering, re-drawing, and re-building my structure to eliminate the roughly 3'x6' irregular shape in the building forced by the city's unlawful zoning, along with attorney fees, costs, and other damages.

I look forward to your vote on the policy committee's patently incompetent recommendation to keep the policy, 05CA023 and 05RZ038 on August 1st.

I can only once again urge you that instead of relying on the "opinion" of staff or the policy committee that was supposed to make a competent analysis to "inform" you that you read the three pages I emailed to you July 13th and the laws I cited to weigh against their unstudied conclusions to make an informed and thoughtful decision. Everyone involved to date has completely avoided what the law says, avoided an analysis, and jumped to the desired conclusion to uphold anything and everything the city has done. This cheerleading won't get the city far in court. For example, a judge will want to know how the city thinks that zoning 500 year floodplain as FH is consistent with the code the city created and is obligated to follow, including Chapters 17.04, 08, and 28, that say FH only applies to 100 year floodway and not 100 year floodfringe or 500 year floodplain. Joel Landeen's generic and unstudied conclusions (relied on by staff and also the committee members) that anything and everything the city does is lawful will have to turn to actual analysis of the law and the facts at some point. Better now than in court because it will waste far less taxpayer dollars. There is no way to avoid it - to make an educated decision you must review and understand the law and facts before making an analysis and ultimately reaching a conclusion from the analysis. I have repeatedly laid it out for you to make it easier. Once again, I will answer questions in detail and in writing.

Sincerely,

Tracy Parris