

**DEMERSSEMAN JENSEN, LLP**

L A W Y E R S

516 FIFTH STREET - P.O. BOX 1820  
RAPID CITY, SOUTH DAKOTA 57709-1820

ROBERT W. GUNDERSON (1915-1994)  
JOHN C. FARRAR (1914-1983)  
MICHAEL B. DEMERSSEMAN  
CURTIS S. JENSEN  
HARRY W. CHRISTIANSON  
FRANK DRISCOLL  
THOMAS W. STANTON  
MICHAEL V. WHEELER  
TAMARA M. PIER

TELEPHONE  
605-342-2814

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605-342-0732

E-MAIL  
law@demjen.com

TO: Rapid City Planning Commission

FROM: Tamara M. Pier

RE: File# 02PL085  
Canyon Lake Heights Subdivision  
Preliminary Plat

DATE: August 29, 2002

I have been retained to represent several landowners who have property adjacent to the proposed subdivision on Cliff Drive and Miracle Place. (See attached petition.) They have several concerns about this proposed subdivision of the current Lot 3 of Block 15 Canyon Lake Heights Subdivision into four lots. The main concern the neighboring landowners have is the impact that subdividing one lot into four lots has on traffic flow, fire protection, and the quality of life for the neighborhood. The specific issues this group of neighbors has are as follows:

1) Subdivison Variance. A subdivision variance was granted to Dean Kelly Construction at the layout plat stage. When the neighbors were notified of the request for this variance, the attached site plan showed only the current Lot 3 use not the contemplated uses of Lots A, B, C, & D. (See attached notice.) There is some question as to whether the notice was adequate considering the fact that the neighbors were only notified that the zoning district was LDR; however, the ordinance states that "[s]uch certified mailings shall include both the date set for hearings and contemplated uses." RC Municipal Code, Section 16.24.040 Since the neighbors were not aware that the contemplated use was four lots instead of one, they did not initially object to the variance being granted so that the applicant would not have to install curb, gutter, sidewalks, or connect to City water. This variance was reconsidered at the July 15, 2002 meeting, the neighbors were given an opportunity to state their objections, and the variance was again passed by the Council.

2) Special Exception. Now, in addition to the subdivision variance, the applicant has requested a special exception to the Street Criteria Manual. According to the Street Criteria

Manual, the access for Lot D should be from Miracle Place, lesser order street, rather than Cliff Drive. Due to the fact that the driveway for Lot D would need to cross a major drainage easement to take access onto Miracle Place, the applicant wants to instead take access onto Cliff Drive. This would eliminate the need for costly paving and driveway development improvements across the major drainage easement, but it would create a safety hazard because of the access from Lot D directly onto Cliff Drive and its proximity to existing streets. Cliff Drive is a narrow, street with steep grades and no shoulders or guardrails. It was initially constructed when the subdivision was a part of the County and does not meet the City's Street Criteria Manual's standards for its classification as a subcollector street. As a result of the threat to public safety the granting of this special exception would create, the neighboring landowners request that this special exception be denied.

3) Lots. The neighbors are also of the opinion that the proposed Lots C & D are not appropriate for the location of the subdivision or for the type of development and use contemplated. See, RC Municipal Code, Section 16.12.190. In reviewing the applicant's preliminary plat, it is to be noted that a large portion of both Lots C & D are major drainage easements. (See attached copy of preliminary plat.) Although the proposed lots certainly meet the square footage requirements for the LDR zoning district, they are inappropriate because of the drainage easements and street access problems they pose. The adjoining neighbors realize that the owner of this lot has a right to develop the existing lot, but believe that a lower intensity of use through fewer lots would be more appropriate to the area.

SUMMARY. The fact that the applicant needs to apply for a variance to the subdivision standards and for a special exception to the Street Criteria Manual to make the development of the four lots economically feasible speaks to the inappropriateness of the location of the subdivision. The proposed subdivision is located in an area with substandard infrastructure for streets and water service. It is located in a moderate to high Wild Fire Hazard Area with no water service but wells. In addition, a major drainage easement encompasses a large portion of two of the proposed lots. Based on the above issues and those addressed in the neighbor's petition, the adjoining neighbors request that you recommend denial of the special exception to the Street Criteria Manual and preliminary plat.

We, the undersigned, residents of Canyon Lake Heights, wish to oppose splitting Lot 3 of Block 15 of Canyon Lake Heights Subdivision and a portion of the SE 1/4 of the SE 1/4 Section 8, located in the SE 1/4 of the SE 1/4 of Section 8 and in the SW 1/4 of the SW 1/4 of Section 9, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, into more than one building site.

1. The proposed lot layout is not appropriate for the Canyon Lake Subdivision as per City ordinance 16.12.190
2. Increased Traffic on Cliff Drive, already an accident prone street.
3. Drainage concerns on the front portion of the existing lot.
4. Clearing of timber will make the proposed sites inconsistent with other lots in Canyon Lake Heights.
5. Chapel Valley residents must have an escape route if their entrance/exit is closed by flood or fire.
6. The notice to the adjacent property owners identified one platted lot as a whole so the residents had no reason to think that four residences were planned

#	Date	Name and Signature	Address
	24 July 2002	Print name: <u>WILLIAM C. FLEMING</u> Signature: <u>W.C. Fleming</u>	4470 CLIFF DRIVE
	July 21 2002	Print name: <u>SUSAN TURNBULL</u> Signature: <u>Susan Turnbull</u>	4470 Cliff Drive.
	July 24 2002	Print name: <u>CAROL J. DOYLE</u> Signature: <u>Carol J. Doyle</u>	4150 FARVIEW DR.
	July 21 2002	Print name: <u>Arnold R. Doyle</u> Signature: <u>Arnold R. Doyle</u>	4150 Farview Dr.
	July 25 2002	Print name: <u>Barbara J. Mitzel</u> Signature: <u>Barbara J. Mitzel</u>	4280 Farview Dr.
	July 25 2002	Print name: <u>Jerald J. Mitzel</u> Signature: <u>Jerald J. Mitzel</u>	4280 Farview Drive
	July 25 2002	Print name: <u>Larry WETSCH</u> Signature: <u>Larry Wetsch</u>	4191 FARVIEW DRIVE
	7-25-02	Print name: <u>TERRI SILVER-WETSCH</u> Signature: <u>Terri Silver-Wetsch</u>	4191 Farview Dr.
	July 28 2002	Print name: <u>James R England</u> Signature: <u>James R England</u>	4561 Cliff Drive
	- 7 - 28 - 2002	Print name: <u>Carol M. England</u> Signature: <u>Carol M. England</u>	4561 Cliff Drive
	7-29 2002	Print name: <u>Paul M. Ferguson</u> Signature: <u>Paul M. Ferguson</u>	4180 Farview Dr.
	7-29 2002	Print name: <u>Nancy Musegades</u> Signature: <u>Nancy Musegades</u>	4180 Farview Drive
	7-29 2002	Print name: <u>KENT C. MUSEGADES</u> Signature: <u>Kent C. Musegades</u>	4180 Farview Drive
	7-30	Print name: <u>Pat Randall</u> Signature: <u>Pat Randall</u>	4785 Cliff Dr.
	8-4	Print name: <u>Chad Timmer</u> Signature: <u>Chad Timmer</u>	4115 Farview Dr.
	8/4	Print name: <u>Kirsten Timmer</u> Signature: <u>Kirsten Timmer</u>	4115 Farview Dr.

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5. Chapel Valley residents must have an escape route if their entrance/exit is closed by flood or fire.
6. The notice to the adjacent property owners identified one platted lot as a whole so the residents had no reason to think that four residences were planned

#	Date	Name and Signature	Address
	24 July 2002	Print name: <u>Eleanore R. Moe</u> Signature: <u>Eleanore R. Moe</u>	4560 Cliff Drive
	7/24/02	Print name: <u>George R. Moe</u> Signature: <u>George R. Moe</u>	4560 Cliff Drive
	7-27	Print name: <u>Maureen Zimney</u> Signature: <u>Maureen Zimney</u>	4695 Cliff Dr.
	7-27	Print name: <u>CLIFFORD L. BROWN</u> Signature: <u>Clifford L. Brown</u>	4150 Red Rd Dr
	7-28	Print name: <u>BETTY W. DIAMOND</u> Signature: <u>Betty W. Diamond</u>	4730 Cliff Drive
	7-29	Print name: <u>Janet L. Bryson</u> Signature: <u>Janet L. Bryson</u>	4719 Cliff Drive
	7-29	Print name: <u>Dean Bryson</u> Signature: <u>Dean Bryson</u>	4719 Cliff Drive
	7-29	Print name: <u>Chris Silyn</u> Signature: <u>Chris Silyn</u>	4670 CLIFF DRIVE
	7-29	Print name: <u>John Silyn</u> Signature: <u>John Silyn</u>	4670 CLIFF DRIVE
	7-29	Print name: <u>Micki J. Kennison</u> Signature: <u>Micki Kennison</u>	4691 Cliff Dr.
	7-29	Print name: <u>Barry J. Kennison</u> Signature: <u>Barry J. Kennison</u>	4691 Cliff Drive
	7-30	Print name: <u>ELLEN C. McDONALD</u> Signature: <u>Ellen C. McDonald</u>	4724 CLIFF DR.
	7-2	Print name: <u>JOSEPH P. McDONALD</u> Signature: <u>J. P. McDonald</u>	4724 CLIFF DR.
	8-2	Print name: <u>Margaret Dahl</u> Signature: <u>Margaret Dahl</u>	4715 @ Cliff Dr
	8/3/ 2002	Print name: <u>BARRY L. ZIMNEY</u> Signature: <u>Barry L. Zimney</u>	4695 CLIFF DR RAPID CITY, SD 57702
		Print name: _____ Signature: _____	

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#	Date	Name and Signature	Address
	24 July	Print name: Ella Stotz Signature: <i>Ella Stotz</i>	4270 Cliff Drive
	24 July	Print name: <i>VERLYN STOTZ</i> Signature: <i>Verlyn Stotz</i>	4270 Cliff Dr. RC SD 57702
	25 July	Print name: <i>Don Jorgenson</i> Signature: <i>Don Jorgenson</i>	4230 Farview Dr RC SD 57702
	25 July	Print name: <i>Helean Jorgenson</i> Signature: <i>Helean Jorgenson</i>	4230 Farview Dr. Rapid City S.D. 57702
	25 July	Print name: <i>Sheri Settle</i> Signature: <i>S. Settle</i>	3010 Calle Baja RC SD 57702
	7-25	Print name: <i>Tracy Settle</i> Signature: <i>Tracy Settle</i>	" " 3010 Calle Baja
	7-25	Print name: <i>James C. Kuborn</i> Signature: <i>James C. Kuborn</i>	4119 Cliff Dr
	7-25	Print name: <i>James H. Kuborn</i> Signature: <i>James H. Kuborn</i>	" " "
	7-25	Print name: <i>Henry Yantzer</i> Signature: <i>Henry Yantzer</i>	4180 Cliff Dr
	7-25	Print name: <i>Joe Hartford</i> Signature: <i>Joe Hartford</i>	4500 Miracle Pl.
	7-25	Print name: <i>Debra Hartford</i> Signature: <i>Debra Hartford</i>	4500 Miracle Pl
	8/4/02	Print name: <i>Bob AND Debbie MARTIN</i> Signature: <i>Bob &amp; Debbie Martin</i>	4140 CLIFF Drive RC SD 02
	8/4/02	Print name: <i>Nancy Ashley</i> Signature: <i>Nancy Ashley</i>	4022 Calle Baja Rapid City SD 57702
	8/4/02	Print name: <i>Carson Quinn</i> Signature: <i>Carson Quinn</i>	4200 Calle Baja RC SD 02
	8/4/02	Print name: <i>Janet Quinn</i> Signature: <i>Janet &amp; Carson</i>	4200 Calle Baja RC SD 02
		Print name: _____ Signature: _____	











# CITY OF RAPID CITY

## RAPID CITY, SOUTH DAKOTA 57701-2724

### PLANNING DEPARTMENT

300 Sixth Street

Urban Division: 605-394-4120  
Transportation Planning Division: 605-394-4120  
GIS / LIS Division: 605-394-4120

fax: 605-394-6636  
city web: [www.ci.rapid-city.sd.us](http://www.ci.rapid-city.sd.us)

#### NOTICE OF HEARING FOR A VARIANCE TO THE SUBDIVISION REGULATIONS

Variations to the Subdivision Regulations are considered at public hearings where questions and concerns by those affected can be heard. To ensure that those in the immediate area of the proposed change are aware of the request, this notice is sent by certified mail to all owners of property within 150 feet (measured by excluding street and alley rights-of-way). While anyone may offer a comment or raise a question at the scheduled public hearing, only those who own property within 150 feet are sent an official notice of the hearing.

If it is inconvenient for you to appear at the meeting, you may file your comments by letter. In the letter give the street address and legal description of your property, and the purpose for which it is now used, and any comments on the Variance to the Subdivision Regulations. Letters may be mailed to the Rapid City Planning Department, 300 6th Street, Rapid City, SD 57701. You may call 394-4120 if you have questions.

You are notified by this letter that the following request for a Variance to the Subdivision Regulations will be considered by the Rapid City Planning Commission on **June 6, 2002 at 7:00 a.m. in Council Chambers, 300 6th Street, Rapid City, South Dakota.** The Rapid City Planning Commission will make a recommendation to the Rapid City City Council. The Rapid City City Council will consider the request for a Variance to the Subdivision Regulations on **June 17, 2002 at 7:00 p.m. in the Council Chambers, 300 6th Street, Rapid City, South Dakota.** *The Rapid City City Council will take the final action on the Subdivision Regulations Variance Request.*

APPLICANT: Doug Sperlich for Dean Kelly Construction

PREMISES AFFECTED: Lot 3 of Block 15 of Canyon Lake Heights Subdivision and a portion of the SE1/4 of the SE1/4 of Section 8, located in the SE1/4 of the SE1/4 of Section 8 and in the SW1/4 of the SW1/4 of Section 9, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota

LOCATION: South of the intersection of Cliff Drive and Miracle Place

PURPOSE OF PETITION: **Variance to the Subdivision Regulations to waive the requirement of Chapter 16.16 of the Municipal Code requiring curb, gutter, water and sidewalk along Cliff Drive**

PRESENT ZONING OF PROPERTY: Low Density Residential District

FILE NUMBER: 02SV025



EQUAL OPPORTUNITY EMPLOYER

02SV025

Canyon Lake





# Renner & Sperlich Engineering Company

616 Sixth Street

• Rapid City, South Dakota 57701

• 605/342-1191

August 8, 2002

City of Rapid City Engineering Division  
300 Sixth Street  
Rapid City, South Dakota 57701

**Re: Request for Variance to Street Criteria Manual  
Canyon Lake Heights Subdivision  
Located at Cliff Drive and Miracle Place  
Rapid City, South Dakota  
Project #1211.01**

Sirs;

Included is our request for variance to the Street Criteria Manual for the proposed driveway entrance to Lot D of Canyon Lake Heights Subdivision. The project is located in the SE1/4 of the SE1/4 of Section 8, and the SW1/4 of the SW1/4 of Section 9, T1N, R7E, BHM Rapid City, Pennington County, South Dakota.

A copy of the plan sheets showing lot size and configuration has been forwarded to you under separate cover. Note that we propose to plat a major drainage easement between Lot C and Lot D. While the current configuration of Lot D provides frontage to Miracle Place, a driveway would be required across the major drainage easement. In lieu of taking access from Miracle Place, we propose to provide access to Lot D from Cliff Drive. The driveway entrance can be aligned opposite of the existing driveway, as noted on the plan sheets. Access from Cliff Drive will eliminate the need for paving or driveway development within the major drainage easement.

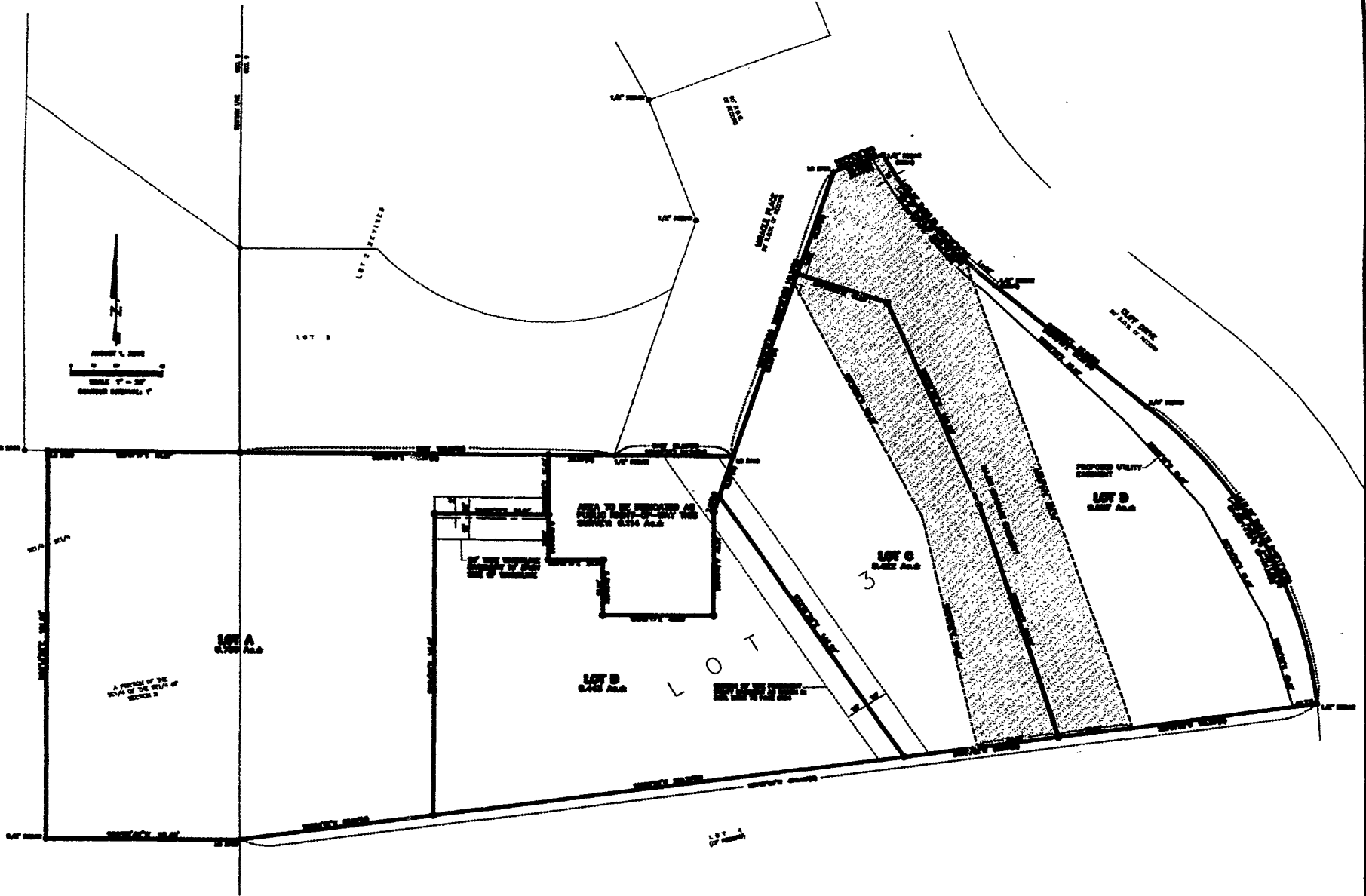
If you have any questions or require additional information please do not hesitate to contact me at (605) 342-1191.

Sincerely;

Kale R. McNaboe, P.E.  
Staff Engineer

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SECTION AREA NORTH AND SOUTH  
 PORTIONS OF BLOCKS 1-8 INCLUDING  
 DAVEN LINE VILLAGE SUBDIVISION



**DATE:** 01/21/2024  
**PROJECT:** 2401024  
**CLIENT:** [REDACTED]  
**PROJECT:** [REDACTED]

**PROPOSED LOTS A, B, C, & D OF LOT 3 OF BLOCK 10  
 DAVEN LINE VILLAGE SUBDIVISION  
 LOCATED IN THE WEST END OF SECTION 8 AND  
 IN THE WEST END OF THE WEST 1/2 OF THE EAST 1/2 OF  
 TOWNSHIP 37N, RANGE 10E, COUNTY, DAVEN COUNTY, MISSOURI**

**Renner & Sperlich Engineering Co.**  
 600 Main St. • Suite 200 • St. Louis • MO 63102-1100  
 TEL: 314.433-1100 • FAX: 314.433-1101

REVISIONS	
NO.	DESCRIPTION

**PRELIMINARY PLAT**

DATE:	01/21/24
PROJECT:	2401024
CLIENT:	[REDACTED]
PROJECT:	[REDACTED]
DATE:	01/21/24

<b>SHEET</b>	<b>1</b>
<b>OF</b>	<b>4</b>

TO: Rapid City Planning Commission

FROM: Jerald J. Mitzel, Property Owner

RE: File No. 02PL085 *Item #34*  
Canyon Lake Heights Subdivision  
Preliminary Plat

DATE: September 2, 2002

I am a homeowner living in Canyon Lake Heights Subdivision, across Cliff Drive from the subject lot. We, the landowners of Canyon Lake Heights Subdivision, have several concerns with the division of Lot 3 of Block 15 of Canyon Lake Heights Subdivision into four proposed lots. Attached are petitions signed by almost all property owners of Canyon Lake Heights Subdivision opposing the splitting of this lot into four lots. We have voiced our concerns to the City Council on July 15, and presented the City Council with the petition signatures that were obtained at the time, on August 5, 2002. The specific concerns are as follows:

1. As per Rapid City Ordinance 16.12.190 regarding design standards for subdivisions, the lot shape, size, width, depth, shape, etc. shall be appropriate for the location of the subdivision. The existing Lot 3 is a long and narrow lot. As per the new proposed lot layout plan, four structures would be in a somewhat row from front to back. Also, with the proposed easements, turnarounds, and structures, an estimated 60 to 70% of the existing pine trees would have to be cleared. We believe that the proposed lot split into four parcels is not appropriate for the Canyon Lake Heights Subdivision.
2. With the proposed four lots, it is estimated that an additional 44 trips would be made on Cliff Drive. Cliff Drive is currently a narrow street, 15 feet wide in some places, with somewhat blind curves and steep drop-offs on one side. In the past few years, there have been numerous accidents along this stretch of Cliff Drive. Is this street capable to safely handle the increased traffic volume along with the additional requirements for emergency vehicles?
3. In our neighborhood, July 15 presentation of concerns to the City Council, we stated our concerns of the lot split regarding the initial application for variance for curb, gutter, water, and sidewalks along Miracle Drive. We also stated that if this variance was approved, it would set a precedent for future variance applications. The petitioners, Kelly Construction and Doug Sperlich, stated that future variance applications would not be required and/or asked for. Now after reading the Staff Report relative to the Preliminary Plat, another variance or Special Exception to the original plan was granted relative to access to Lot D from Cliff Drive and a requirement to vacate or obtain a variance for the section line in Lot A. Now another variance must be granted, which was not mentioned in the staff report, for curb, gutter, sidewalk, and water along Cliff Drive.
4. A Special Exception was requested and granted to allow Cliff Drive to serve as access to proposed Lot D in lieu of Miracle Place. The proposed location is across from an existing driveway located directly east of Cliff Drive. This driveway directly east of Cliff Drive from the new proposed driveway is very steep, approximately 13.8% slope. In ice or snow conditions, we have seen vehicles slide across Cliff Drive. If there is another residential driveway directly across from this drive, we feel there would be a safety concern. Now the vehicles drive into the grassy area across the street before stopping. If a new driveway is allowed across the street and possibly the location of the proposed new

structure or a vehicle parked in this driveway, the sliding vehicle will collide with whatever is in its path.

5. In the past few years, city sewer has been installed in most of the Canyon Lake Heights Subdivision in several phases as assessed projects. Few of the existing lot owners adjacent to the new sewer mains objected to this installation as they knew this would help the environment and they would not have to maintain their old septic systems. Now many of these lot owners say they would have objected to this sewer line installation if they knew that someone would take advantage of the sewer line and subdivide lots into many smaller lots. Also, if additional lots are granted, we feel the owners of these additional lots should also participate in the cost of bringing this sewer main into the area by reimbursing the lot owners accordingly, that have been assessed for the project.

SUMMARY: We as homeowners feel that the original application for variance and Layout Plat is now being exploited by the developers. The application for variances and Special Exceptions will not end until the developers needs are met for their proposed subdivision, which is not appropriate or acceptable to the existing landowners of Canyon Lake Subdivision. The developers for this proposed lot split are aware of the objections of the neighborhood. If these developers were sincere and series about this lot split, they would meet with our neighborhood and present their master plan and drawings of their future plans. To date, we have not heard a word from the developer or engineer concerning their future plans. We are very concerned that a substandard development will result, thus reducing the existing standards of Canyon Lake Heights Subdivision. Based on these issues and those addressed in the petition, we, the neighborhood, request that you recommend denial of the Special Exception and the Preliminary Plat.