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Planning Department

Rapid City

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Reply to Rapid City Office

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March 11, 2003

Marcia Elkins
City Hall
300 6th Street
Rapid City, SD

Re: Joe and Winona Lytle

Dear Marcia:

Joe Lytle has presented to me a copy of the Agenda of the Rapid City Planning Commission on March 6, 2003. Under Staff Review, it stated as follows:

"The applicant's driveway extends south from S.D. Highway 44, across property currently owned by the City. The applicant should be aware that naming the driveway in no way creates a legally binding obligation for the City or any future property owner to allow access across the City owned property."

As you are no doubt aware, the life estate that Joe and Winona retained on the property that was sold to the City was based on an agreement that they would have a right-of-way driveway easement that would continue across the property for the duration of the life estate given to the Lytles. I have enclosed a copy of the original of the Memorandum of Understanding on this issue and a copy of the March 6th Agenda. By copy of this letter, I am sending a copy to Dan Bjerke for his review.

Best regards.

Sincerely,

BANGS, McCULLEN, BUTLER,
FOYE & SIMMONS, L.L.P.



Allen G. Nelson

agn:ke

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and Minnesota

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MEMORANDUM OF UNDERSTANDING

PARTIES:

The parties to this Memorandum of Understanding (MOU) are Joseph M. Lytle and Winona M. (Lytle); SD Department of Transportation (SDOT) and City of Rapid City, South Dakota (City).

PURPOSE:

The purpose of this MOU is to set forth the terms and conditions upon which the State is to acquire for highway purposes the property hereinafter described from Lytle which will be subsequently granted to the City.

PROPERTY:

The property covered by this MOU consists of 77.07 acres located in the East Half of the Southwest Quarter (E½SW¼) of Section Nine (9), Township One North (T1N) Range Eight East (R8E) of the Black Hills Meridian, Pennington County, South Dakota.

COMPENSATION:

The SDOT shall compensate Lytle for said land in the amount of One Million Four Hundred Twenty-Nine Thousand Dollars (\$1,429,000.00), less Five Hundred Thirty-two Thousand Five Hundred Sixty (\$532,560.00) which has already been paid leaving a balance of Eight Hundred Ninety-Six Thousand Four Hundred Forty Dollars (\$896,440.00).

RESERVATION OF LIFE ESTATE:

Lytle shall reserve in the deed to the SDOT a life estate in all of the property described above except for that which is to be used by the State for highway purposes with said life estate to last so long as either Joseph M. Lytle and Winona M. Lytle lives

and resides thereon. Lytle shall maintain the property in a reasonable state of repair and shall not commit waste thereon. Joseph M. Lytle and Winona Lytle also agree that they will not encumber the life estate, transfer, or lease the life estate to any other parties. Lytle shall transfer to the City all water rights attached to the above-described property which transfer shall be subject to the life estate.

CITY ACQUISITION:

The City agrees to acquire from the State the property described above and shall pay to the State the sum of Five Hundred Fifty-six Thousand Four Hundred Forty Dollars (\$556,440.00). The Grant from the State shall be subject to the life estate referred to above and a right-of-way driveway easement to be located by mutual agreement between the City and Lytle. The State shall also accept from said grant the portion of the above described for highway purposes.

IMPLEMENTATION:

The parties agree to execute all documents necessary to implement this MOU on or before July 31, 2001

TREES:

There are a number of trees on the property which are part of the tree nursery and the City will be entitled to take and remove said trees for its use except for 300 which Lytle will have the right to select, retain and remove.

DRIVEWAY EASEMENT:

The driveway easement referred to above shall be constructed and maintained by Lytle and shall continue so long as the life estate referred to above.

TITLE:

Lytle agrees to convey good and merchantable title to the SDOT.

Dated this 27 day of July, 2001.

SD DEPARTMENT OF TRANSPORTATION

BY: William J. Nevin
ITS: Assistant Attorney General

CITY OF RAPID CITY

BY: Jeff Munson
ITS: Mayor
James F. Fuster

BANGS, McCULLEN, BUTLER, FOYE &
SIMMONS, L.L.P.

BY: Joseph M. Butler
Allen G. Nelson
JOSEPH M. BUTLER
ALLEN G. NELSON
Attorneys for Joseph M. Lytle
and Winona M. Lytle

X

AGENDA
City of Rapid City Planning Commission
March 6, 2003 7:00 A.M.
City Council Meeting Room
300 Sixth Street
Rapid City, SD 57701

ITEMS ON THIS AGENDA ARE SUBJECT TO A SECOND PUBLIC HEARING BEFORE THE RAPID CITY CITY COUNCIL FOR FINAL ACTION. RECOMMENDATIONS OF THE PLANNING COMMISSION ON ITEMS FROM THIS AGENDA MAY BE CONSIDERED BY THE RAPID CITY CITY COUNCIL AT THEIR NEXT REGULAR MEETING ON MARCH 17, 2003 AT 7:00 P.M. PLEASE CONTACT PLANNING STAFF FOR INFORMATION REGARDING WHICH CITY COUNCIL AGENDA ANY PARTICULAR ITEM WILL BE HEARD FOR FINAL ACTION.

Consent Calendar

The following items have been placed on the Consent Calendar for action to be taken on all items in accordance with staff's recommendation by a single vote. Any item may be removed from the Consent Calendar by any Planning Commissioner, staff member, or audience member, for separate consideration:

---NON HEARING ITEMS CONSENT CALENDAR---

1. Approval of the February 20, 2003 Planning Commission Meeting Minutes.
2. No. 03AN002 - Section 27, T2N, R8E
A request by Dakota, Minnesota and Eastern Railroad Corporation to consider an application for a **Petition for Annexation** on Lot H7 in the SW1/4 of Section 27, T2N, R8E, BHM and Lot H1 in Tract B in the NE1/4 SW1/4 of Section 27, T2N, R8E, BHM, Pennington County, South Dakota, more generally described as being located south of Interstate 90 and Exit 61.
3. No. 02PL113 - Stoney Creek South Subdivision
A request by Dream Design International, Inc. to consider an application for a **Layout Plat** on Lots 1 thru 4 of Block 1; Lots 1 thru 6 of Block 2; Lots 1 thru 3 of Block 3; Lots 1 thru 7 of Block 4; Lots 1 thru 3 of Block 5, Lots 1 thru 5 of Block 6 and Outlot A; Stoney Creek South Subdivision, located in Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted balance of the S1/2 NW1/4 SW1/4 less Lots H1 and H2; and the unplatted balance the N1/2 NW1/4 SW1/4 located south of Catron Boulevard, all located in Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located southeast of the intersection of Catron Boulevard and Sheridan Lake Road.
4. No. 02PL116 - Big Sky Business Park
A request by Dream Design International, Inc. to consider an application for a **Preliminary and Final Plat** on Lot 1, Block 1; Lots 1 thru 5, Block 2; Lots 1 and 2, Block 3; Lots 1 and 2, Block 4; Lots 1 thru 4, Block 5; Lot 1, Block 6 and dedicated Street, Big Sky Business Park, located in the SW1/4 SW1/4 and the S1/2 NW1/4 NW1/4 of Section 3, T1N, R8E, BHM, Rapid City, Pennington

9. No. 03RD002 - Section 9, T1N, R8E
A request by Joseph and Winona Lytle (Life Estate) to consider an application for a **Road Name Proposal for a private drive - Lytle Lane** on the balance of Tract A of the E1/2 SW1/4 and of the W1/2 SE1/4 less Lot H1 and the S1/2 SW1/4 NE1/4 less Lot H2 and less right-of-way; S1/2 SE1/4 NW1/4 less Lot H1; balance of NE1/4 SW1/4 less Lot H1; and the balance of the W1/2 SE1/4, all located in Section 9, T1N, R8E, BHM, Pennington County, South Dakota, more generally described as being located east of Twilight Drive and south of E. Highway 44.
10. No. 02SR028 - Fountain Springs Business Park
A request by Jerry Gyles for Golden West Technologies to consider an application for an **11-6-19 SDCL Review of a public utility in Light Industrial Zoning District** on Tract E of Fountain Springs Business Park, Section 27, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2727 North Plaza Drive.
11. No. 03SR002 - Rapid City Greenway Tract
A request by the City of Rapid City to consider an application for an **11-6-19 SDCL Review of a public facility in a public place** on Tract 35 and Tract 36, Rapid City Greenway Tract, Section 6, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located west of Cambell Street along East St. James Street at the Black Hills Polo and Soccer Grounds.
12. No. 03SR005 - Rapid City Greenway Tract
A request by the Rapid City Weed and Seed Project to consider an application for an **11-6-19 SDCL Review to allow the placement of a plaque along Rapid Creek for the Adopt-A-Creek Project** on Tract 8 (also in Section 4 and 10, T1N, R7E), Rapid City Greenway Tract located in Section 3, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2900 Jackson Boulevard.
13. No. 03SR006 - Rapid City Greenway Tract
A request by the Rapid City Weed and Seed Project to consider an application for an **11-6-19 SDCL Review to allow the placement of a plaque along Rapid Creek for the Adopt-A-Creek Project** on Tract 10 and Tract 10A, Rapid City Greenway Tract, Section 3, T1N, R7E, BHM, Rapid City, Pennington County South Dakota, more generally described as being located at 1111 Mountain View Road.
14. No. 03SR007 - Rapid City Greenway Tract
A request by the Rapid City Weed and Seed Project to consider an application for an **11-6-19 SDCL Review to allow the placement of a plaque along Rapid Creek for the Adopt-A-Creek Project** on Tract 4 and the north 27 feet of vacated Flormann Street (also in Section 10, T1N, R7E), Rapid City Greenway Tract, Section 9, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2330 Arrowhead Drive.

X
STAFF REPORT

March 6, 2003

No. 03RD002 - Road Name Proposal for a private drive - Lytle Lane

ITEM 9

STAFF REVIEW:

The City typically does not name private driveways except in situations where emergency access can be improved due to unusual lot layout, topography or other unique circumstances. Due to the unique access issues associated with this site, staff recommends that the driveway be named as proposed. The Emergency Services Communication Center has reviewed the proposed road name, and recommends approval. This will improve emergency response to the site and provide greater convenience to the residents.

The applicant's driveway extends south from S.D. Highway 44, across property currently owned by the City. The applicant should be aware that naming the driveway in no way creates a legally binding obligation for the City or any future property owner to allow access across the City owned property.

It has been the policy of the City to require applicants to arrange and pay for the installation of street signs in cases where the applicant is requesting a new name or a name change. For that reason, staff is recommending that the applicant arrange for and pay for the installation of the street sign. (The Planning Department Staff will notify all affected agencies of the street renaming after the City Council approves the request.)