

06PD070

----- Original Message -----

From: [Veda Wojciechowski](#)

To: [Mayor Jim Shaw](#) ; [Tom Johnson](#) ; [Mike Schumacher](#) ; [Sam Kooiker](#) ; [Deb Hadcock](#) ; [Karen G. Olson](#) ; [Bill Okrepkie](#) ; [Lloyd LaCroix](#) ; [Ron Kroeger](#) ; [Malcom Chapman](#) ; [Bob Hurlbut](#)

Sent: Wednesday, January 31, 2007 5:36 PM

Subject: Re: Appeal on Planned Residential Development Plan No. 06PD070

Ladies and Gentlemen:

The cold weather has interfered with plans to try to meet with each of you personally so we will address our issue in this e-mail letter.

At the City Council Meeting next Monday (Feb. 5, 2007), you will be required to take action on an appeal of the City Planning Commission's decision on January 4, 2007, for Planned Residential Development Plan No. 06PD070, Evergreen Condominiums project, which lies within the boundaries of the Canyon Lake Overlay District.

Growth Management Staff recommended that the Planned Residential Development Plan be denied because the applicant did not want to bring Evergreen Drive up to the required standards set forth in the Canyon Lake Overlay District guidelines. However, the Planning Commission approved the Planned Development Plan for the Evergreen Condominiums for Bobby Sundby and Jim Scull (Scull Construction) who are the principals of Evergreen Condominiums, LLC. The Planning Commission disregarded Staff recommendations and granted the request for a waiver of the requirement to bring the street (Evergreen Drive) up to current City standards.

During discussion at the Planning Commission meeting, it was not made clear whether the whole street of Evergreen Drive needed to be brought to current standards or just the portion from developer's property line to a major street. Evergreen Drive already has water, sewer, street lights, curb, gutter and sidewalks, but is not the required width of 27 feet. It is only 24 feet wide. When questioned after the meeting, Growth Management personnel said that only the portion from a major artery (Canyon Lake Drive) to the farthest edge of developer's property would be affected, which is about two-thirds of a block. We believe the Planning Commission got the impression that the whole street would need to be completely improved and this may not be the case. The applicant/developer should be held to comply with the Canyon Lake Overlay requirements.

Granting a waiver of the requirement to bring the street to current City standards should not be allowed, as it will set a precedent for all future development in similar situations. The developer should not be granted a waiver for this project. We urge you to deny the Plan as it was presented. In the alternative, we urge you to require that the Canyon Lake Overlay requirements be adhered to and NOT waived.

Pursuant to legal notices published in the Rapid City Journal on January 10, January 17, January 24, and January 31, 2007, a Summons shows that there is a question of ownership of the south 21.9 feet of Lot B where the second condominium is proposed to

be built. We feel this matter should be denied or at least continued until the quiet title action is concluded and the court decides who actually owns this portion of the property.

Please call if you have any questions regarding this letter.

Sincerely,

Veda and Don Wojciechowski - Phone: 342-0500

Adjacent property owners on Evergreen Drive

----- Original Message -----

From: Rick and Terry <rickandterry@rushmore.com>

To: <tom.johnson@rcgov.org>, <mike.schumacher@rcgov.org>, <sam.kooiker@rcgov.org>, <deb.hadcock@rcgov.org>, <karen.olson@rcgov.org>, <bill.okrepkie@rcgov.org>, <lloyd.lacroix@rcgov.org>, <ron.kroeger@rcgov.org>, <malcom.chapman@rcgov.org>, <bob.hurlbut@rcgov.org>

Sent: Thu, 1 Feb 2007 09:54

Subject: Fwd: Evergreen Apts File # 06PD070, Wellsprings Conditional use Permit

Members of the Rapid City Council,
1 Feb. 07

On January 4th 2007 the Planning Commission overrode the Growth Management recommendation that the permit be denied because of the Canyon lake Overlay requirement for street improvement of Evergreen Dr. The Developer was issued a building permit for lots A and B before the Canyon Lake overlay was approved, The Developer decided to change his plans knowing full well the Canyon Lake Overlay was going to be approved. It so happened that the Canyon Lake Overlay was approved by the City Council before the Developers plans were approved. They rolled the dice and lost. I request you up hold the Canyon Lake Overlay and deny the request of the Developer. If the developer gets his way the Canyon Lake Overlay will become null and void because a president will set and other Developers will do the same. The Council recognized the was a problem in The Canyon Lake area when it passed the Overlay. Do not allow the Canyon Lake Overlay be gutted.

On January 4th 07 Wellsprings applied for a Conditional use permit to allow a teenage care center in a MDR District. This will compound the street problem in the Canyon Lake area. The location of Wellsprings is on Evergreen Dr. the same as the Evergreen Apts. I request you deny the conditional use permit.

These items are up for the Council meeting on Feb 5th 07

Rick Robertson
3245 Harmony Lane
Rapid City, SD 57702
rickandterry@rushmore.com

06PD070

----- Original Message -----

From: "Gail Hanson" <sgailhanson@hotmail.com>
To: <CouncilGroup@rcgov.org>
Sent: Monday, February 05, 2007 3:19 PM
Subject: Canyon Lake Area

I have lived in the Canyon Lake area and owned property here since my Son attended Canyon Lake Grade School starting with kindergarten (he is now 37 years old). I have seen the neighborhood, particularly the area where I live, gradually erode from a safe place for kids to walk to school and play after school to higher density (and consequently more traffic). Please consider those of us who love the Canyon Lake neighborhood for its charm, for being a safe place to take a walk and admire each other's gardens, for the kids to ride their bikes to Little League. It is an irreplaceable piece of Rapid City where middle and lower income families can thrive.

Don't allow changes such as the Outpatient Teenage Mental Health Care Center or more units to the Evergreen Condos. Let us keep our safety and the open space we have left.

I wish I could attend the meeting tonight, but I cannot. I hope this email will serve as my appearance and my voice.

Gail Hanson
1622 Evergreen Drive
Rapid City, SD
718-4854

06PD070

----- Original Message -----

From: Mulwyk1@aol.com

To: councilgroup@rcgov.org

Sent: Monday, March 19, 2007 4:36 PM

Subject: Tonights meeting

Re: Evergreen Condominiums planned development

I have one grave concern regarding the new proposed condo development on Evergreen Dr. in Rapid City. The infrastructure will need to be continually upgraded and fixed on this street. This will cost the residents and tax payers quite a bit of money. The water mains have broken at least 4 times since the first condo's were built. We have put up with the lack of water (sometimes off for 8 to 10 hours) and the streets and sidewalks in disrepair. Also, I am sure it has been expensive to fix (including telephone/electric poles that have given way under the saturated soil).

Please be aware of these problems in our neighborhood before approving more condo development.

Thank you for your time.

Sincerely,

Sharon and Bob Gustafson
1930 Evergreen Dr.
Rapid City, SD

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Attorneys & Counselors at Law
1301 West Omaha Street, Suite 108
Rapid City, South Dakota 57701
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Stan H. Anker
sanker@rushmore.com

Stanton A. Anker
stanton@rushmore.com

March 19, 2007

Via electronic transmission
Office of the City Attorney
Attention: Jason E. Green
300 Sixth Street
Rapid City, South Dakota 57701

Dear Jason:

As you know, Mr. and Mrs. VandeVooren are very concerned over the fact that the City of Rapid City, in conjunction with Robert T. Sundby, may still be attempting to use their property for a fire lane to a private development project known as No. 06PD070, which is item 102 on the agenda for tonight. By now you are fully aware that the VandeVooren's are the owners of the South 20' of the East 75' of said Lot B of Lot 14. This property was transferred by Quit Claim Deed dated August 16, 1956 from Joseph J. Holecek to Alice Albers and recorded at Book 116 of Deeds, Page 573. Thereafter, by Warranty Deed dated May 24, 1979 and recorded at Book 36 of Deeds, Page 8689, Harry and Alice Albers transferred this property to Darryl D. VandeVooren and Cary L. VandeVooren.

The City of Rapid City did not obtain their interest in the strip of land along Lot B of Lot 14 until March 25, 1958, when Joseph J. Holecek by Quit Claim Deed recorded in Book 122 of Deeds, Page 630, transferred the South 21.9 feet of Lot B of Lot 14 to the City for the use as a public street or public utility right of way. Further, Mr. Holecek retained a reversionary interest in the property if not used for these purposes. And you also know by now, the Warranty Deed dated October 18, 2002 and recorded in Book 106 of Deeds, Page 4241, signed by Patrick H. Vidal, transferred his interest in Lot B of Lot 14 to Robert T. Sundby, but *specifically excluded* the South 20' of the East 75' of Lot B of Lot 14 (the VandeVooren's property).

Mr. VandeVooren's concern is that he may have to sue the City and developer and get an injunction to prevent the trespass on his property. I am writing to ask simply "Why should the

VandeVooren's have to go to court and spend thousand's of dollars to enforce their property rights when the ownership is not in issue?". The other concern is that the City Council not take any action tonight which infringes upon the property rights of the VandeVooren's. I would appreciate the City's position on these matters.

Sincerely,

/s/ Stan H. Anker
Stan H. Anker

SHA:amo
c. Client
c. City Council (via email)

06PD070

----- Original Message -----

From: Rick and Terry <rickandterry@rushmore.com>

To: <tom.johnson@rcgov.org>, <sam.kooiker@rcgov.org>, <debhaddock@rdgov.org>,

<lloydacroix@rcgov.org>, <ronkroeger@rcgov.org>,

<malcom.chapman@rcgov.org>, <bobhurlbut@rcgov.org>

Sent: Sun, 18 Mar 2007 18:36

Subject: Fwd: No. 06PDO70

[No. 06PD070](#) - An appeal of the Planning Commission's decision on a request by J Scull Construction for a **Planned Residential Development - Initial and Final Development Plan** on Lots 1 thru 16, Evergreen Condominiums, and Lot B of Lot 14, less North 80 feet of the East 255 feet of Lot B, platted, Section 4, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 1626 Evergreen Street.

I urge you to vote to uphold the Canyon Lake Overlay. You as Council Members voted this in, now the Developer is asking for a variance, what will be next? If you don't want the overlay to be law why did you vote for it in the first place? This is not about garages this is about the overlay. I would like a written response from each of you.

Rick Robertson
3245 Harmony Lane
Rapid City, Sd 57702