

TO THE RAPID CITY PLANNING COMMISSION:

Lazy P-6 Land Company, Inc.'S RESPONSE TO STAFF REPORT DATED SEPTEMBER 5, 2002, RECOMMENDING DENIAL OF SDCL § 11-6-19 APPLICATION TO CONSTRUCT STREET IMPROVEMENT

Lazy P-6 Land Company, Inc. respectfully submits the following in response to the identified staff report:

1. As noted in the staff general comments, Lazy P-6 Land Company, Inc. has already obtained a construction permit from Pennington County for the construction of the proposed road. Lazy P-6 Land Company, Inc., as it did in its application, continues to reserve the right to question the jurisdiction of the City of Rapid City regarding this matter.

2. The proposed basis for denial is the staff's conclusion that the roadway to be constructed must meet the construction criteria for a principal arterial road as well as the City Street Design Criteria Manual requirements. Lazy P-6 Land Company, Inc. submits that the purported requirement that the street be constructed as a principal arterial road and that it meet City of Rapid City Street Design Criteria Manual requirements, clearly exceed the authority of the City under SDCL § 11-6-19 which limits the Planning Commission's review to the application of the "location and extent" of the proposed roadway. The proposed roadway is located on a section line which is designated for the ultimate extension of 5th Street. Thus, the location of the road is in accordance with the City's major street plan. In addition, the road's extent is also in accordance with the Major Street Plan for the ultimate extension of 5th Street and thus, likewise, meets all of the requirements and criteria of SDCL § 11-6-19. Finally, the staff's requirement that the proposed roadway comply with the City of Rapid City's Street Design Criteria Manual is invalid as the design standard under the City of Rapid City Street Design Criteria Manual, as adopted in Section 16.12.010(H) of the Rapid City Municipal Code, is clearly adopted only as a part and requirement of the subdivision process and ordinance.

For the information of the Planning Commission, Lazy P-6 Land Company, Inc. is aware that at such time as 5th Street is extended, it will be constructed as a principal arterial and has taken steps in anticipation thereof to raise the grade to match the pre-existing approach by raising it higher than County specifications require to make it compatible with City requirements and to make certain that the required minimum 100-foot right-of-way will be preserved and that when 5th Street is extended, it can be constructed to the standards of the City Street Design Criteria Manual. It is Lazy P-6 Land Company, Inc.'s anticipation that the existing roadway can be used and incorporated into Fifth Street when it is extended. Lazy P-6 Land Company, Inc. respectfully submits that until such time as 5th Street is extended, there is no valid reason for the City to attempt to restrict the construction of this roadway and in turn the use of the Lazy P-6 Land Company, Inc.'s property.

The Planning Commission is further advised that Lazy P-6 Land Company, Inc. has a valid air quality permit which is being extended by the State of South Dakota. A copy of the extension will be provided upon receipt.

Finally, the Planning Commission is advised that there was no construction on the existing approach which was tied into and thus no requirement for a further State permit. The State has acknowledged in writing that the approach meets State requirements.

Dated this 24th day of September, 2002.

Lazy P-6 Land Company, Inc.

BY: Lazy P-6 Land Company Inc.
Its: Scott W. [Signature]