October 19,2001

Rapid City Planning Department 300 6th Street Rapid City, SD 57701-2724

Comments for the following:

NOTICE OF HEARING FOR PLANNED DEVELOPMENT #01PD052 NOTICE OF HEARING FOR REZONING REQUEST #01RZ057 NOTICE OF HEARING FOR A VARIANCE #01SV026

Our name is Donavon & Tina Tucker, we own a 10 acre tract of property at mailing address-4780 Enchanted Pines Drive (legal 1N-07E-SEC23 Rapid City: 1N-07E-Sec23 unplatted NE1/4NW1/4NE1/4).

The following are our comments:

- 1. We believe that the private street "Enchanted Pines Drive" is just that a PRIVATE STREET for the purpose of access to the lots that it serves and the privacy of a private street which gives nobody but the lot owners the right to use it! if the grantor of the easement wanted a public street he would have made it public. A great deal of the value to my property is because it is a private area not accessable to the general public so thus by allowing someone to dedicated a private street which all the lot owners have an interest in would amount to taking of ones rights. I do see legal problems with the taking of lot owners rights.
- 2. To go on a bit futher if you approve the dedicated street I would have to take exception again when you are asked to approve a paved 52' wide street, city standards or not we all have a 66' wide easement are you condeming the remaining 14' of our easement? will we be compensated or just drive over future lot owners lawns which is our easement.
- 3. We have concerns with 20 more septic systems in the City right above our property as we are on the downside of this purpose development if any systems fails or leaks out on to and contaminate our property then I believe the CITY has a big liability issue. Maybe making them put a lift station in and extending the sewer lines to nearby lines on Hwy 16 is not out of the question maybe a heck of a lot cheaper in the long run.
- 4. Having no access to turn around for the many more visitors to the purpose 20 lots brings concern to us that they will use or tresspass onto our property, then with 20 more houses brings many more people that will eventually wonder onto our private forrest of literally a 1000 trees, what accidents are then waiting to happen.
- 5. We have more concerns with the paving requirements, such as when I wanted to divide my lot in half I was told to pave, curb & gutter and provide a cul-de-sac now it seems only a asphalt 20' road is ok now.

Further obligations prohibits us from making this important meeting but I hope the Planning Commission can understand our concerns and objections to this proposed subdivision of our private area.

Thank you, Donavon L. Tucker Tima M. Tucker

Donavon & Tina Tucker

4780 Enchanted Poines Drive

Rapid City, SD 57701

605-348-6033

pc Kenneth Dewell (Viken, Viken, Pechota, Leach & Dewell, LLP)

City Attorney

Mayor Munson

October 22, 2001

Rapid City Planning Department 300 6th Street Rapid City, SD 57701-2724

COMMENTS - NOTICE OF HEARING FOR PLANNED DEVELOPMENT APPLICATION File # 01PD052

My name is Diane (Sunny) Stephens, and I own a 10.15 tract of property at mailing address - 4770 Enchanted Pines Drive.

(Legal: 1N-07E SEC 23 Rapid City: 1N-07E SEC 23 Unplatted NW1/4 NE1/4NE1/4

When I purchased this Medicine Ridge tract in 1982, there were no less than a dozen available "lots" in the Enchanted Hills I development. Since I did NOT want to be back in the close neighborhood setting from which I was moving, I elected to buy one of the tracts of land, with the understanding that these 8 tracts of land were an option for those of us who wanted to keep the general agriculture zoning where we could keep horses and have a 'buffer' from adjacent dwellings.

When I purchased the tract, there was a small stock dam constructed at the bottom of the draw on the north middle side of my property. This dam is filled from a natural spring that runs down deep in the canyon parallel to the north boundary of the tracts, as well as from run-off due to rain and snow accumulations. In the mid-1980s, I had the water in the dam tested for safety in allowing my horses to access the water during the summer. The water tested OK for animal use, fish habitat, and recreation.

This brings up three issues of concern to me.

<u>First</u>, with the intended saturation of additional septic tank drain fields on the north side of the property in question, I fear eventual contamination of this stock dam. In the *attached* copy of a letter from Mike Madden,{ present owner of planned development property} to the city planning office dated <u>March 28, 1995</u>, Mike indicated HIS concern when property adjacent to his was being considered for division into only two 5-acre lots! [Ref. Par. #1]

<u>Second</u>, having the concentrated influx of family dwellings so close to my property, I fear that the danger of insurance 'liability' becomes an issue when trying to restrict children from what is deemed an "attractive nuisance" i.e. this stock dam and my horses.

Third. My ten-acre tract is a Backyard Wildlife Habitat, Cert. # 20308 having been approved by the National Wildlife Federation in 1997. This property, the stock dam, and the adjacent properties are a refuge for wildlife. A concentrated development such as that proposed will certainly restrict the free-roaming nature of these animals and they will be considered unwelcome to those individuals who have moved 'to the country' and now want to turn it back into a city block neighborhood atmosphere.

COMMENTS - NOTICE OF HEARING FOR REZONING REQUEST File # 01RZ057

Within the past five years, Mike Madden took issue with the intended change in requirements for general agriculture zoning. At one point, Mike negotiated with the county in order that all tract owners might **stay** limited agriculture under a 'grandfather clause' because even though at the time we purchased our tracts, the requirement was a minimum of 10 acres, it later was changed to 20 or more acres.

Another issue I raise is whether the re-zoning of the adjacent property from general agriculture to low density residential will ultimately have an effect on the tax evaluation of my property. Even though there are no intended improvements to my house or the possibility of subdivision {giving real estate sales opportunities} due to topography, I fear that my home as well as others already on the tracts will be unfairly assessed based on the value of the proposed subdivided properties.

COMMENTS - NOTICE OF HEARING FOR A VARIANCE TO THE SUBDIVISION REQUIREMENTS File # 01SV026

In reference to the *attached* Common Council minutes dated July 6, 1987 [RC Journal July 24, 1987] Mike Madden indicated to the City Planning Office he felt that ANYONE who intended to subdivide any of the tracts be held responsible for bringing the utilities and road improvements up to city specifications at their own cost since these improvements were NOT being requested by the adjacent tract property owners.

To not comply with these requirements would put the Enchanted Pines Drive tract owners in a hazardous setting with a 'minimum' of 20 <u>additional</u> vehicles using a roadbed intended for 8 households and their vehicles.

As Secretary/Treasurer of the Enchanted Hills Water Association for over ten years now, I have been privy to the conditions of the City taking over the Enchanted Hills water system. Because the original intent was for 8 water taps in the Medicine Ridge Subdivision, and the three-inch water line was deemed sufficient by the City for that number of users, and in lieu of a cost prohibitive

assessment to the 8 tract owners, the city did **NOT** update the Medicine Ridge water lines to city specifications. This decision was unanimously favored by the tract owners in Medicine Ridge [Ref. Par. #3 Mike Madden letter]]

In addition, Enchanted Pines Drive is NOT platted clear to the end of the roadway to the east. The original easement to the power line fence was abandoned some years ago, and the easement to the Watson property was moved to the location of their present driveway. There is NO OUTLET for residential egress to the east. Should there be an incident of wildfire or other necessary evacuation, putting this many residences on one narrow road, WITHOUT regulation fire hydrants and an alternative exit, would be pure disregard for human life and property.

It has also recently been noted in the *attached* RC Journal (Sunday, October 14, 2001) that one property owner (Sally Broucek/Dale Stumer] adjacent to the eastern boundary of the Medicine Ridge tracts has indicated NO IMMEDIATE INTEREST in participating in the 5th Street development - *The Rapid City Infrastructure Development Partnership Fund* - which would eventually provide a connection to the Enchanted Pines Drive roadway. This should give rise to concern by the RC Fire Department as to the highly saturated residential division planned in an area with only one foreseeable egress.

As a RC school teacher, I cannot afford to take leave without pay to attend the planning hearing on October 25. But I hope that the Planning Commission can understand my concerns and objections to the proposed subdivision and housing saturation of our 'country living'.

Thank you,

Diane (Sunny) Stephens

4770 Enchanted Pines Drive [Tract #6]

Rapid City, SD 57701

605/343-0706

attachments (3)

pc Kenneth Dewell {Viken, Viken, Pechota, Leach & Dewell, LLP}

pc Mayor Jerry Munson

pc City Attorney Tamara Pier

--⁴-- 01RZ057

Michael K. Madden Ph. D.

Business and Economic Research

4955 Enchanted Pines Drive Rapid City, SD 57701-9252 Phone: (605)348-2498

March 28, 1995

Members and Staff Rapid City Planning Commission City Hall Rapid City, SD

Re: Tucker Property - Medicine Ridge

Dear Members and Staff:

It came to my attention yesterday that a request for a subdivision of some lots in Medicine Ridge has been submitted for your review. I wish to submit the following statements for you to consider and urge you to consider them seriously.

1. First, these two lots are already part of a subdivision - Medicine Ridge. The 80 acres of land comprising Medicine Ridge was split into eight 10 acre building lots in 1981. That is to say, the proposal before you at the present time already makes up part of a subdivision. Accordingly, the request that is now before you is actually a request for a subdivision of a subdivision.

Medicine Ridge was a part of a larger development which included Enchanted Hills a subdivision which included smaller lots. People that wanted smaller lots than were available in Medicine Ridge purchased them in Enchanted Hills subdivision, an option that was available to the petitioners.

- 2. The present petitioners for this new subdivision of a subdivision only recently purchased this property and accordingly knew that they were ten acre lots, but now apparently want five acre lots instead of the ten acre lots available in Medicine Ridge.
- 3. The capacity of the water system was designed and built according to the lot plans which were adopted initially. This means that pumping capacity, storage capacity, and pipe sizes were tailored to the lots which exist at the present time. There is no excess capacity for accommodating new subdivisions within the present service area of the Enchanted Hills Water Association.

For example, there is a three inch line serving the existing 8 lots in Medicine Ridge. Because there was never any contemplation of splitting these lots into numerous building sites, the pipe size is totally inadequate to supply water to



additional lots within Medicine Ridge. As president of Enchanted Hills Water Association I can tell you that similar capacity problems exist with respect to storage and well capacity. Therefore, I ask that you not make *any* reference, implied or otherwise about Enchanted Hills Water Association supplying water to this project as we are not interested in expanding our service area to new subdivisions.

This is further reinforced by the possibility that some other ten acre parcels in Medicine Ridge could hypothetically ask for the same financial assistance to accommodate their subdivision plans if any should arise in the future. Theoretically, dozens of lots could all be asking for water from the same three inch pipe.

- 4. I also have deep concerns about building additional sewer drain fields deep down in the draw that comprises this subdivision request. During your deliberations involving nearby Enchanted Hills II last year, you were justifiably insistent that drain fields not extend into the draws surrounding that project. There are springs as well as unstable ground conditions in that draw and its going to be hard enough to develop two drain fields on this project without adding to the situation by allowing a subdivision and its additional drainfields.
- 5. The road leading to this proposed subdivision is not adequate to handle the increased usage which would be caused by this subdivision of a subdivision. I was recently asked if I would be willing to financially assist these people with this problem. Since I would receive little or no benefit and also do not have the financial strength to help them pay for this road, please do not consider this alternative. The road would also be difficult for me to move some of my farm machinery and livestock as well.

These are some of the factors I hope that you will consider in your future deliberations concerning this project. If you would like me to appear at a future meeting and discuss these and other issues, I would be happy to do so.

Sincerely,

MICHAEL K. MADDEN

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Pocharde explained veterinarian services for the Animal Shelter and they recommended that a contract be entered into with Dr. Roman Kurylas at a cost of \$7.00 per animal. Kurylas indicated that his bid of \$7.00 per animal included his time, labor, drugs and training of Shelter personnel; and that Snetter personner, dividing injections would commence on July 10, 1987. Motion was made by Welland and seconded by Albrecht weitand and seconded by Albrecht to authorize the City to enter into a contract with Dr. Kurylas for services at the Animal Shelter. Upon vote being taken thereon, the motion carried.

JoAnn Jewel, President of the Humane Society asked that the machine be dismantled or destroyed so that it cannot be sold to anyone to be used for the same purpose. A question was raised about any salvage value for parts of the decompression chamber. It was noted that the machine is in a bad state of disrepair. Motion was made by Edwards, seconded by Weiland and carried to determine that this decompression cha has no value and therefore it can be used by the Humane Society to cit charitable contributions.

HEARINGS HEARINGS Motion was made by Powers lanniña seconded by Hillard to accept the recommendation of the Planning her, he back the Commission and approve in Variance to the Subdivision Regulations (paving requirement) on N½ NE¼, Section 23, T1N, R7E. BHM, Pennington County, South Dakota. Miller explained that the petitioner owns just over ten acres of land that was transferred prior to the ordinance requiring that all land transfers under forty acres be platted. A request was made for a building permit for a single family dwelling, however, the County would not issue a permit because the property did not abut a platted private or dedicated right-of-way. There is a surveyed easement for access to this and other properties on record at the Register of Deeds Office. The Petitioner and two other property owners agreed to dwelling however, the County other property owners agreed to plat the easement as a private street. A request is not being many to subdivide property in this area.
The platted private street will serve three different ownerships at this time and is necessary for one of the

Sutton Summon he is a Nire 100 owners to get a building permit. Miller added that requests for platting in this area will necessitate the paving of this right-of-way. Miller reiterated that this property is not platted and is not being platted. All the Council is looking at is providing a dedicated private street to provide access to this parcel of land so that the owner can obtain a building permit. Holbrook stated that when people purchase homes on private streets, may assume that the streets are maintained by the City. Me suggested that when street signe are erected, they should somehow indicate that the street street. indicate that this is a private stree and will not be maintained by m City. Curt Pochardt from the Al Quality Review Board stated the they would like to see this read paved and he encouraged the Council to review its policy and the grounds under which a variance should be granted. The Air Quality Board would like to see guidelines for the Council to use when deciding if a variance should be approved or denied. Miller added that the ferrain in this area is very steep and because of this, future development and subdivision limited. Edwards stated that stree lights or street maintenance and improvements to this street would private land owners in this erea. Mike Madden, area property owner, stated that if anyone in mis after street work.

area submitted a proposal to subdivide any of these properties.

they should never a able by all the usual city requirements. He added that he felt it was very unlikely that this would happen heads to be properly when the same that he had all the same that he had all the same added mat he did not see that the same a

should have to abide by all the

the City due to air quality Upo vote being taken thereon, the motion to refer this back to the The Humane Society and staff have reviewed the bids submitted

wee made by Pr the hearing on the Moratorium of Land Within The Substitution of Michigan August 17, 1987 August 17, 1987 And State Commission and The State a reserve made by m Hames's ters Association resert moratorium Revisions to the resolution are being gran vesser at this time.
Discussing responding the draining issues in the variety are continued and shall be the transmit of the progress being made in this effort.

careful me structures to

Resolution introduced read and Powers BESCH . ON LEVYING

ASSESSMENT FOR STREET IMPOCHEMENT PROJE STEET THE CREEK DRIVE
BE I RESOLVED by The Rapid C++ South Dakota

Council has m all investigations which it mame necessare and has found a defermined that the arroynt an each are an act shall be beneby the remembership of the error

n free granded assessment residence of the amount of the a ereby sourced and assess of are levied ago m rach and every lot, piece or serve land murary described.

Sur? poursuments, unless pare 130), days effer ~ ~ ~ mores price of the Finance Officer she e by the City Pure Ornice in accordance with 43 11 of the South Desera and shall be sevable in ten area as a saceed twelve becco

Dated the art day of July, Feet & warm Carlyle

ATTEL. VERN Brusse (SEAL)

The m In for the adoption of H Mineral and upon vale being the market, the following valo Remar, Albrecht, Wellen Molerose Edwards, M Coffine and Powers; NO Hillord. Pile m seld itesolution declared duty passed and adop

(Secretary's Note: After this was found in the figures and it e necessary to begi er ve process apain.)

per tre pracets again.)
The personing Resolution was
treatment read and Motheroit
seed to adoption, as amended:
RESOLUTION LEVYING
TREATMENT ROB

ASSESSMENT FOR

CANTON LAKE HEIGHTS PROJECT SSWM 1 BE IT RESOLVED by the Council of the City of Rapid City. South Dakota, at

1 The Common Council has made en invest setions which it de necessary and has found each for ar fract shall be benef by the construction of improvements in stated in the proposed

1 The assessment roll for Canyon SSW86-3 IS NO Proloct accurate and assessments marrow specified are levied against each and every lot, piece or percel of land marroy described. Pby described

3 Such assessments, unless paid printin mirrly (30) days after the ting of the assessment roll in the Office of the Finance Officer shall Orrice or me Finance Officer shall be collected by the City E-nance Office in accordance with the procedure in Section 9.43.43 to 443.53 of the South Dakota 41 53 Of the South Dakote Collision of the Collision of t

Governing body, and WHEREAS If appears that the System of structure at the system of structure at the system of structure of the system of structure at the struct

North, Range 8 East, Black Hills Meridian, Pennington County, South Dakota Deted this 6th day of July 1987.
THE COMMON COUNCIL

Weith Carlyle Mayor ATTEST

Rem Brugger Mence Officer M'ller explained that the annexation consists of perly 140 acres south of Lombardy Park. The intent is winde this property in the seriously approved a rement District #6. South Creek Dr ve has been extended south ecverimately 1,320 feet and provided to connect with the future systhesis fruck route. The pranning Commission's recommendation is to approve the emeration based on development opportunities in this industrial developing area. The south will help open this area up to ture development. Upon vote

neing taken thereon, the following

we lend, Holbrook, Edwards,

Coffing and Powers; NO:

whereupon said Resolution

was declared duly passed and SET FOR HEARING

Not on was made by Powers, Not on was made by Powers, Not on was made by Powers, Not on the Notice of the Notice o Marpole Heights Subdivision, N1/2 SE a. Section 11, TIN, R7E, BHM, Rapid City, Pennington County, Second Dekota; said hearing to be and an Monday, July 20, 1987 at the clock P.M.

was made by Powers. branded by Holbrook and carried series of molorook and carried to serie hearing for a use on review her a normal for the aged, to be the about the following described the series of the following described property Lot 2, SE'4 NE'4, Section 1, 114, 87E, BHM, Rapid City, Cauth Darberts. 1. TIN. RTE. BHM. Rapid City, speningfon County, South Dakota; said hearing to be held on Monday, held hearing to 21.7.30 o'clock P.M. throadsard explained that this use writ be lend leased by the City to the applicant A determination has been made by the Interior Dept. cause a reversion, since this land ired from the Federal

Mation was made by Powers, sconded by Holbrook and carried vacation of right of way: Lot L, Block I, Strathavon Addition, SEV Bisca 1, Stramavon Addition, 36:14
SW14, Section 3, and Lof 1, Block 5,
Strathavon Addition, N/2 NW14,
Section 10, T1N, R7E, BHM, Rapid
City, Pennington Country, South Dekota; said hearing to be held or August 17, 1987 at 7:30 o'clock P.M.; and authorize the Mayor to 0'clock sign this petition for vacation

Motion was made by Powers, seconded by Coffing and carried to set a hearing for a requested Vacation of right-of-way: North Street from East Boulevard North, Eastward between Blakes Addition, Block 4, Lot 10, and Blakes Addition, Block 5, Lot 5, Rapid City, Pennington County, South Dakota: said hearing to be held on August 17, 1987 at 7:30 o'clock P.M. Holbrook noted that there was a plan at one time to swiend East North Street through warming cast morth afreet through this right of way for easier access to the Civic Center. This will be discussed further at the hearing on

PLATE

The following Resolution was introduced, read and Powers

RESOLUTION

APPROVING PLAT WHEREAS & SULVEY DIST OF A WHEREAS a survey plat of a portion of Receivack Subdivision including Lot M and J (former) molared believe of Lot X Y) all located in N to 15 M of NWI of Section 10, T1N, REE, BMM, in Pennington County, South Dakota was duly filed with the City Finance Officer for the purpose of examination and approval by the

P.R.D. located in the W1/2 of the NE'4 of the SW14 of Section 15 TIN, R7E, BHM, in Rapid City the SW1/4 of Section 15, Pennington County, South Dakota be, and the same is hereby approved and the City Finance Officer of Rapid City is hereby authorized to andere on such plat a authorized to endorse on such plat a copy mis resolution and certify

Friday, July 24, 1987) the Rapid City Journal

correctness Dated at Rapid City, Sou Dakota this 6th day of July, 1987. THE COMMON COUNCIL s/Keith Carlyle

Kent Brugge Finance Officer (SEAL)

The motion for the adoption of the pregoing Resolution was seconded by Coffing. Miller explained that this plat was previously continued until the required improvements were complete. Those improvements have been complete, therefore, the plat can be approved. Upon vote being taken therec following voted AYE: Kellar Albrecht, Welland, Holbrook dwards, Hillard, Coffing and Powers; NO: None, when said resolution was declared duly passed and adopted.

The following Resolution was introduced, read and Powers oved its adoption:

RESOLUTION APPROVING PLAT

WHEREAS a Plat of a portion of WHEREAS a Milat of a portion of Fairway Hills P.R.D., including: Lots 1 through 3 of Block 3 of Fairway Hills P.R.D. located in the W1/2 of the NE1/4 of the SW1/4 of Section 15, TIN, R7E, BHM, in Rapid City, Pennington County South Dakota was duly filed with the City Finance Officer for the purpose of examination and approval by the Governing body.

WHEREAS it appears that the system of streets set forth therein conforms with the system of streets of the existing plats of the City, that all provisions of subdivision regulations have been complied with, that all taxes and assessments upon assessments upon the property have been fully paid, and that such have been ruly paid, and mar such plat and the survey thereof have been executed according to law NOW. THEREFORE, BE IT RESOLVED that the Plat of a portion of Fairway Hills P.R.D., including. Last 15 results 1 as 18 result

including: Lots 1 through 3 of Block including: Lots 1 through 3 of Block 3 of Fairway Hills P.R.D. located in the W½ of the NE½ of the SW½ of Section 15, T1N, R7E, BHM, in Rapid City, Pennington County, South Dakota, be, and the same is hereby approved and the City Finance Officer of Rapid City is hereby authorized to endorse on hereby authorized to endor

hereby authorized to endorse on such plat a copy of this resolution and certify to its correctness. Dated at Rapid City, South Dakota this 4th day of July, 1987. THE COMMON COUNCIL s/Keith Carlyle

Mayor ATTEST: s/Kent Brugo Finance Officer (SEAL)

The motion for the adoption of the foregoing Resolution was seconded by Coffing, Miller explained that the layout and preliminary have been previously approved for these three lots. The final plat does meet all of the conditions of the previous submittal. Upon vote being taken thereon, the following voted AYE: Kellar, Albrecht, Welland Holbrook, Edwards, Hillard, Coffing and Powers; NO: None, whereupon said resolution was declared duly passed and adopted.
Motion was made by Powers,
seconded by Coffing and carried to tinue the Final Plat of Lots Continue the Final Plat of Lots 1 through 5 of Tract 1 (formerly Tract 1) of S.G. Interstate Plaza Subdivision, N1 5E14, Section 27, T2N. R7E, BNM, Repid City, Pennington County, South Dakota, until July 20, 1927, pending the necessary signatures being put on he plat

following Resolution was introduced, read and Powers moved its adoption

RESOLUTION APPROVING PLAT WHEREAS & Plat of Lots 1. 2. 2

of title. There are septic tanks on Lots 1 and 2 which serve existing facilities. Lot 3 is vacant and will probably be platted into a larger parcel north of the interstate in the future. A note has been placed on the plat indicating that a septic study be completed for Lot 3 prior to the issuance of a building permit. o the issuance of a building permit.
Don vote being taken thereon, the
flowing voted AYE: Kellar,
brecht, Welland, Holbrook,
dwards, Hillard, Coffing and Powers; NO: None, whereupon said Resolution was declared duly passed and adopted.

The following Resolution was introduced, read and Powers moved its adoption:

RESOLUTION

APPROVING PLAT WHEREAS a Plat of Clocktower Gardens, P.U.D. a Subdivision, including: Lot A and Lot B, formerly Tract A of Clocktown Gardens and a portion of the east 20 Gardens and a portion or the east au feet of Lot L of the Harter Tract, previously reserved for road, all located in Lot 2 of Section 3, TIM, R7E, BHM, In Rapid City, South Dakota Pennington County, South Dakota was duly filed with the City Finance Officer for the purpose examination and approval by the Governing body, and
WHEREAS it appears that the

system of streets set forth therein conforms with the system of streets of the existing plats of the City, that all provisions of subdivision regulations have been complied with, that all taxes and special assessments upon the property have been fully paid, and that such plat and the survey thereof have

plat and the survey Inereof have been executed according to law NOW. THEREFORE, BE IT RESOLVED that the Plat of Clocktower Gardens, P.U.D. a Subdivision, including: Lot A and Subdivision, including: Lot A and Lot B, formerly Tract A of Clocktower Gardens and a portion of the east 20 feet of Lot L of the Harter Tract, previously reserved for road, all located in Lot 2 of Section 3, TIN, R7E, BHM, in Rapid City, Pennington County, South Dakota, be, and the same is hereby approved and the City Finance Officer of Rapid City is hereby authorized to endorse on hereby authorized to endorse on Finance Uniter or Rapid City hereby authorized to endorse on such plat a copy of this resolution and certify to its correctness.

Dated at Rapid City, South Dakota this 6th day of July, 1987. THE COMMON COUNCIL s/Keith Carlyle

Mayor ATTEST s/Kent Brugger inance Officer (SEAL)

The motion for the adoption of the foregoing Resolution was seconded by Coffing. Miller explained that the plat for the Planned Commercial Development was recently approved. This lot split establishes Lot A for the apartments and Lot A for the offices. Easements for access, arking, parages, necestrian ways marking, parages, necestrian ways The motion for the adoption of the parking, garages, pedestrian ways, drainage, and utilities have been indicated on this plat. Upon vote being taken thereon, the following voted AYE: Kellar, Albrecht Weiland, Holbrook, Edwards, Hillard, Coffing and Powers; NO: None, whereupon said Resolution was declared duly passed and

adopted The following Resolution was introduced, read and Powers moved its adoption:

RESOLUTION

APPROVING PLAT
WHEREAS a Plat of Lot
1-Revised of Block 7 of Plat No. 2 of 1-Revised of Block / or Plat No. 2 or Carriage Hills and Lof S-Revised of Block 8 of Plat No. 1 of Carriage Hills, formerly Lof 1 of Block 7 of Plat No. 2 of Carriage Hills and Lof 5 of Block 8 of Plat No. 1 of Carriage Hills, all located to the MCI; of the 3 or Brock 8 of Plat No. 1 of Carriage Mills, all located in the NEVa of the SEVs and in the SEVa of the SEVa of Section 17, TIN, RZE, BMM, in Rapid City, Pennington County, South Dakota was duly filled with the City Finance Officer for the purpose of examination and approval by the Governing body.

WHEREAS IT appears that the system of streets set forth therein conforms with the system of streets

2619, having June 15, 19 Powers, sec the second voted AYE Weiland, Hol and Powers; the Mayor

Dassed and Ordinance 26 Motion was Ordinance 2 Amending Chi Ordinances of City, by De Developmen Article VIII D Works. Carlyl quested that

tabled becaus currently being needs this ordi Upon vote bein motion carried Ordinance Ordinance Pr Cans and Co Rushmore Plaz Declaring an introduced. Upo

Holbrook, secon carried, Ordina upon its first re was fully and d second reading meeting to be he 13, 1987 at 7:00 p Ordinance 2 Ordinance Amen and 2K of Ordin Rapid City, Rezoning the

Property, was proposes to rezo NW1/4 and SE Section 29, T2N, City, Penningto Dakota from II heavy industria made by Powe elland and ca 2623 was placed reading and the ti distinctly read.

Officer was author to publish noti thereon, said hear Monday, July 20 o'clock p.m. Motion was ma seconded by Hillar table Ordinance 2 legal description

Miller explained th vill be coming in \ legal description a will be started agai Ordinance 2625 dinance Amendi 2A and 2C of Ordinal Rapid City, So Rezoning the Witt Property, was in proposes to rezone NE¹/₄, Section 3, TH Rapid City, Pennir South Dakota from medium density resi motion made by Pow by Hillard and carrie 2625 was placed u eading and the title distinctly read. T Officer was authorized to publish notice

thereon, said hearing Monday, July 20, Monday, July 20, 0'clock p.m.
The following Reintroduced, read at moved its adoption:
RESOLUTION APAMEMINED LE

AN AMENDED LE AN AMENDED LE
ADDITIONAL S
IN THE MILO B.
TRANSPORTATION
WITH RUSH-MORE
INC., ("AIR LI,
PURSUANT TO SD.
MMEDEAS AN MM

WHEREAS on the Council of the City of lopted a resolution resolution Approving Space in the N Transportation Center Service, Inc., dbe Air I WHEREAS THE L ed to lease addi

the Milo Barber Tre

NOW, THEREE

Tax-increment district considered

By Diane Rietman

Journal Staff Writer

Because Fifth Street landowners have not agreed to

Rapid City

participate in Rapid City's Infrastructure

Development Partnership Fund, some city staff and Rapid City Council members say money for a proposed Fifth Street extension should be used for other road projects.

The development partnership provides a lower-cost option for developers to build roads and utilities for their developments than the current program of deferred assessments.

The program also requires 100 percent support from 's landowners, instead of 51 percent required under the deferred-assessment program.

In question is the money that was set aside to extend Fifth Street south to Catron Boulevard. After more than a year, the three private landowners along the proposed extension — Sally Broucek, Roy Davis and Walgar Development — have not signed an agreement to participate in the project.

Although extending the road is a city priority, other projects, such as the extension of East Anamosa Street or Mall Drive east from La Crosse Street to Elk Vale Road, also are being considered for the funding.

The Fifth Street project would cost \$5.5 million and extending nearby Elm Avenue would cost \$1.07 million. Both projects would extend the roads south to Catron Boulevard. Extending the sewer system from Highway 79 to Elm Avenue would cost an additional \$244, 140.

The projects would be paid through Vision 2012 funds, the city's Capital Improvements, wastewater and water

Two city committees have

cil Public Works Committee meeting, the committee suggested that a Tax Increment Fund (TIF) district be created for the Fifth Street project.

Under a Tax Increment Fund, the base tax on undeveloped property in the TIF district is frozen. That base amount is used for the city. school or county general funds. As the property is improved and its tax valuation rises, additional taxes collected from property in the district are set aside in a separate fund to repay the project loan. The one exception is school taxes, which are not waived.

Establishing a TIF will be discussed at Monday's city council meeting. If approved, the city-planning staff would put together the TIF proposal.

Alderman Tom Johnson said the Fifth Street extension would benefit the medical industry, Rapid City's largest area of job growth. In addition, it would provide a thoroughfare through the city from Catron Boulevard north to Interstate 90.

To cut and run from something that's so important is wrong," Johnson told the Public Works Committee. "I don't think we've investigated everything to get Fifth Street done. We should continue to look at Fifth Street."

Alderman Tom Murphy said extending Mall Drive would bring outside jobs that could benefit the local economy. Areas along the street could be developed for industrial or commercial uses.

We've lost patience with the Fifth Street when other projects could do better for Rapid City," Murphy said.

Alderman Alan Hanks pointed out that funding from the partnership fund is on a first-come, first-served basis. Unless all the landowners agree to participate in the project and sign a contract with the city, there is no project, he said.

By Bill Cissell

Journal Staff Writer

The Sturgis Area Arts Council will ask the Sturgis City Council Monday for \$20,000 to help pay for a statue of the man for whom the

town was named, Col. Samuel D.

Sturgis.

The \$150,000 bronze depicts the uniformed cavalry officer, mounted on a horse, saluting two youngsters standing along a parade route. The life-size sculpture by Sturgis native Edward Hlavka will be displayed on the city's eastern limits, across from Lions Park on Lazelle Street.

Arts-council officials want to dedicate the piece, which reflects the historic tie between Fort Meade and Sturgis, during the June 2002 Cavalry Days celebration.

Col. Sturgis was the commander of the military post at Fort Meade in 1878 when the town site was laid out

"We have always been a little shy about asking the city for tax dollars because we realize the difficulty in putting together the annual budget, but we were encouraged to do this by a council member, arts-council representative Didi LaRue told the city council's Legal and Finance committee last week.

The arts group has paid half the

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November 5, 2001

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Rapid City Planning & Zoning Commission 300 South 6th Street Rapid City, SD 57701

Rapid City
Planning Department

Re: Medicine Ridge Subdivision

No. 01PL103 - Enchanted Hills Subdivision

No. 01PD052 - Enchanted Hills Subdivision

No. 01RZ057 - Enchanted Hills Subdivision

No. 01SV026 - Enchanted Hills Subdivision

Greetings:

This letter is in follow-up of my appearance before the Rapid City Planning and Zoning Commission on Thursday, October 25th, and in anticipation of my appearance with my clients before the Commission on Thursday, November 7th. I have enclosed adequate copies of this letter so that individual members of the Commission may have their own copy to review prior to the November 7th hearing time.

For the record, I represent Don & Tina Tucker, Sunny Stephens, Kevin Miller and Larry Stevens, all of whom are land owners of property in the Medicine Ridge Subdivision and all of whom are opposed to the proposed development of Michael Madden's property. My clients' opposition to the proposed development are based upon the following:

1. Each of my clients have a private easement sixty-six feet (66') in width over, across and through Mr. Madden's property. Each of the tracts of land described in those private easements has a personal, separate and distinct right of access across the "Madden property" separate and apart from any other private easement granted to anyone else. This same private easement of

Rapid City Planning & Zoning Commission November 5, 2001 Page 2

sixty-six feet (66') likewise extends to the property access for the Tucker's property to the east-northeast and Kevin Miller's property to the north of the proposed development.

Since these private easements are for the benefit of my clients' separately described tracts of land, each of them, as the owner of their tract, is in control of the right of use of the easement. Neither Maddens, the City, the County, any purchaser of the Madden property, nor the other owners of tracts of land in the subdivision may unilaterally or as a group change the legal right to my clients, individually, to use their separate private easement in the matter contemplated by each such private easement. Simply because the proposed development anticipates a fifty-two feet (52') wide "public road" across this same easement description does not, and cannot, diminish or reduce each of my clients' rights to use their private easement of sixty-six feet (66') in width.

Thus, the plat of the Madden property must be redone to reflect the actual width of my clients' private easement and further acknowledge that there may be no obstructions placed in that area which would otherwise interfere with my clients' use of their separate and distinct private easements. To do so or allow otherwise, would be an attempt to diminish the size of each of my clients' private easements and therefore would constitute an attempt to take their property rights interests without just compensation.

- 2. The Declaration of Restrictions and Covenants To Run With The Land, dated the 16th day of June, 1978, which cover my clients' property as well as the Madden property, specifically requires:
 - 8. All utilities, including but not limited to telephone, electricity, gas, sewer, cable television, shall be buried underground and no poles or other devices for utility purposes, except for yard lights, shall be permitted above ground on any tract.

This provision would strictly prohibit the installation of overhead street lights which are mandated by the City's code for a development such as that currently proposed.

Rapid City Planning & Zoning Commission November 5, 2001 Page 3

3. It was the intent of the restrictive covenants to maintain a "rural acreage" atmosphere for all of the property described in the restrictive covenants. The proposed development would now seek to create lots of between one and two acres, certainly less than the "rural acreage" contemplated by the restrictive covenants.

While Mr. Madden now may want to sell his property for development so that the developer can plat Maddens' 20 acres into city lots, that has not always been Mr. Madden's attitude. In 1995 by his letter to the Pennington County Planning Commission, it is clear that Mr. Madden was advocating that the subdivision intended to maintain itself as a rural acreage subdivision and that he, in fact, actively and publically opposed any further subdivision of another tract within the subdivision.

By the minutes of the Pennington County Commission meeting of the 6th day of July, 1987, it was clear that the County Commission likewise believed that the Medicine Ridge Subdivision was to be maintained as a rural acreage. From that meeting, Mr. Madden declared:

If anyone in this area submitted a proposal to subdivide any of these properties, they should have to abide by all the usual city requirements...(subdividing is) very unlikely...because the property owners wanted to keep these large "ranchette" lots.

4. The city lots contemplated by this development would require private septic drain fields because the property is below access to the city sewage system. Adding an additional 20-25 septic system drain fields to this area would substantially increase the risk of contamination. On March 28, 1995, Mr. Madden wrote to Pennington County:

I also have deep concerns about building additional sewer drain fields deep down in the draw.... During your deliberations involving Enchanted Hills II last year, you were justifiably insistent that drain fields not extend into the draws surrounding that project. There are springs as well as unstable ground conditions in that draw and

Rapid City Planning & Zoning Commission November 5, 2001 Page 4

it's going to be hard enough to develop two drain fields on this project without adding to the situation by allowing a subdivision and its additional drain fields.

- 5. Because of the terrain to the east of Medicine Ridge subdivision, there is the lack of the adequate "second escape route" in the event of a serious fire along the eastern side of this proposed subdivision. There is a significantly greater risk of substantial property damage or lose of life when comparing the evacuation of 30 families versus six or seven. The Fire Department has already mandated a "turn around" at the east end of this proposed subdivision development but that does not address the need for a "second escape route."
- 6. The proposed development does not appear to have addressed the need for storm sewer water removal and/or collection. My clients, as the down gradient properties to the east, are not willing to allow this excess run-off to simply flow onto their properties. If the Engineering Department is contemplating having this water run-off diverted to the south, then and in that event, my clients are certainly entitled to view those plans prior to engineering or the developer asking the Commission and/or City to approve that new plan.

I trust that each of you find this letter to be selfexplanatory, but should there be any further questions or should you discover other documents relevant to these issues, please feel free to contact my office.

Respectfully submitted,

VIKEN, VIKEN, PECHOTA, LEACH & DEWELL, LLP

Kenneth R. Dewell

KRD:dcc

cc: Tina & Don Tucker
Sunny Stephens
Kevin Miller
Larry Stevens