

DRAFT

MINUTES OF THE
RAPID CITY PLANNING COMMISSION
January 4, 2007

MEMBERS PRESENT: Peter Anderson, John Brewer, Mike Derby, Ida Fast Wolf, Julie Gregg, Thomas Hennies, Mike LeMay and Sandra Runde. Deb Hadcock, Council Liaison was also present

STAFF PRESENT: Marcia Elkins, Rodney Proffitt, Vicki Fisher, Karen Bulman, Travis Tegethoff, Jonathan Smith, Emily Fisher, Mary Bosworth, Todd Peckosh, Bill Knight, Kevin Lewis and Carol Campbell.

Brewer called the meeting to order at 7:00 a.m.

Brewer reviewed the Non-Hearing Consent Agenda and asked if any member of the Planning Commission, staff or audience would like any item removed from the Non-Hearing Consent Agenda for individual consideration.

Staff requested that Items 9, 13, 14, and 16 be removed from the Non-Hearing Consent Agenda for separate consideration.

A member of the audience requested that Item 2 and 10 be removed from the Non-Hearing Consent Agenda for separate consideration.

Motion by LeMay, Seconded by Hennies and unanimously carried to recommend approval of the Non-Hearing Consent Agenda Items 1 thru 18 in accordance with the staff recommendations with the exception of Items 2, 9, 10, 13, 14 and 16. (7 to 0 with Anderson, Brewer, Derby, Gregg, Hennies, LeMay and Runde voting yes and none voting no)

---NON HEARING ITEMS CONSENT CALENDAR---

1. Approval of the December 7, 2006 Planning Commission Meeting Minutes.
3. No. 06CA046 - Starlite Subdivision
A request by Dream Design International, Inc. to consider an application for **Summary Adoption Action on an Amendment to the Comprehensive Plan by revising the Elk Vale Neighborhood Future Land Use Plan to change the land use designation from General Commercial to Light Industrial with a Planned Light Industrial Development** on Lot 1 B of Starlite Subdivision located in the SW1/4 SW1/4, Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at the southeast corner of Beale Street and Dyess Avenue and north of Eglin Street.

Planning Commission approved the summary and authorized publication in the Rapid City Journal.

4. No. 06CA050 - Section 4, T1N, R8E

A request by Dream Design International, Inc. to consider an application for **Summary Adoption Action on an Amendment to the Comprehensive Plan by revising the Elk Vale Neighborhood Future Land Use Plan by changing the land use designation from Planned Residential Development with a maximum density of 1.5 dwelling units per acre to Low Density Residential with a Planned Residential Development** on a parcel of land located in Government Lot 3 and the SE1/4 of the NW1/4, Section 4, T1N, R8E, BHM, Pennington County, South Dakota, more fully described as follows: Commencing at the northeast corner of said Lot 3, said point being coincident with the north one-quarter corner of said Section 4, T1N, R8E, BHM, Pennington County, South Dakota, said corner being marked by a brass cap; thence, southerly along the one-quarter section line, S00°05'16"E, a distance of 512.09 feet, more or less, to the point of beginning; thence, continuing southerly along the one-quarter section line, S00°05'16"E, a distance of 1914.86 feet, more or less, said point being marked by an iron pin; thence, continuing southerly along the one-quarter section line, S00°05'03"E, a distance of 246.18 feet, more or less to the center one-quarter corner of said Section 4, said point being marked by a rebar with a surveyor cap number 6565; thence, westerly along the one-quarter section line, S89°48'42"W, a distance of 1328.91 feet, more or less to the southwest corner of the SE1/4 NW1/4 of said Section 4, said point being marked by a rebar with a surveyor cap number 6565; thence, northerly along the one-sixteenth section line, N00°02'44"E, a distance of 1048.69 feet, more or less to the southwest corner of Lot A of the SE1/4 NW1/4 of said Section 4, T1N, R8E, BHM, Pennington County, South Dakota, as shown on the plat recorded in Plat Book 17 on Page 167, said point being marked by a 5/8 inch rebar; thence, easterly along the south line of said Lot A, N89°59'59"E, a distance of 145.15 feet, more or less to the southeast corner of said Lot A, said point being marked by a 5/8 inch rebar; thence, northerly along the east line of said Lot A, N00°02'52"E, a distance of 110.12 feet, more or less, to the northeast corner of said Lot A, said point being marked by a 5/8 inch rebar; thence, westerly along the north line of said Lot A, S89°53'30"W, a distance of 145.14 feet, more or less, to the northwest corner of said Lot A and the one-sixteenth section line, said point being marked by a 5/8 inch rebar; thence, northerly along the one-sixteenth section line N00°00'48"W, a distance of 995.00 feet, more or less; thence, N89°53'30"E, a distance of 151.98 feet, more or less; thence, curving to the right on a curve with a radius of 226.00 feet, an arc length of 2.79 feet, a delta of 00°42'26", and a chord bearing of S00°22'01"E with a chord distance of 2.79 feet; thence, S00°00'48"E, a distance of 181.83 feet, more or less; thence, N89°50'20"E, a distance of 968.82 feet, more or less; thence, N00°03'34"W, a distance of 108.52 feet, more or less; thence, curving to the right on a curve with a radius of 326.00 feet, an arc length of 85.64 feet, a delta of 15°03'07", and a chord bearing of N07°28'00"E with a chord distance of 85.40 feet; thence, N89°54'44"E, a distance of 193.07 feet, more or less, to the point of beginning, more generally described as being located at the western terminus of East Anamosa Street.

Planning Commission approved the summary and authorized publication in the Rapid City Journal.

5. No. 06CA051 - Section 4, T1N, R8E

A request by Dream Design International, Inc. to consider an application for **Summary Adoption Action on an Amendment to the Comprehensive Plan by revising the Elk Vale Neighborhood Future Land Use Plan by changing the land use designation from a Planned Residential Development with a maximum density of 1.5 dwelling units per acre to Medium Density Residential with a Planned Residential Development** on a parcel of land located in Government Lot 3, Section 4, T1N, R8E, BHM, Pennington County, South Dakota, more fully described as follows: Commencing at the northeast corner of said Lot 3, said point being coincident with the north one-quarter corner of said Section 4, T1N, R8E, BHM, Pennington County, South Dakota, and said corner being marked by a brass cap; Thence, S20°34'30"W, a distance of 484.38 feet, more or less, to the point of beginning; Thence, curving to the left on a curve with a radius of 326.00 feet, an arc length of 148.64 feet, a delta of 26°07'24", a chord bearing of S13°00'08"W with a chord distance of 147.35 feet; Thence, S00°03'34"E, a distance of 108.52 feet, more or less; Thence, S89°50'20"W, a distance of 968.82 feet, more or less; Thence, N00°00'48"W, a distance of 181.83 feet, more or less; Thence, curving to the left on a curve with a radius of 226.00 feet, an arc length of 71.32 feet, a delta of 18°04'50", and a chord bearing of N09°03'14"W with a chord distance of 71.02 feet; Thence, N89°50'20"E, a distance of 1013.08 feet, more or less, to the point of beginning, more generally described as being located at the western terminus of East Anamosa Street.

Planning Commission approved the summary and authorized publication in the Rapid City Journal.

6. No. 06AN005 - Section 21, T1N, R8E

A request by Dream Design International, Inc. to consider an application for a **Petition for Annexation** on the unplatted portion of the N1/2 of the N1/2 of the NW1/4 of the NW1/4 and the N1/2 of the N1/2 of the NE1/4 of the NW1/4, Section 21, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at the southern terminus of Jolly Lane.

Planning Commission recommended that the Petition for Annexation be approved contingent on any payment due to the Rapid Valley Fire Protection District.

7. No. 06PL028 - Bar P-S Subdivision

A request by Davis Engineering, Inc. for Bernita White to consider an application for a **Preliminary Plat** on Lots A1 and A2 of Bar P-S Subdivision, located in the W1/2 SW1/4, formerly Lot A of Bar P-S Subdivision, located in the W1/2 SW1/4, Section 20, T1N, R9E, BHM, Pennington County, South Dakota, legally described as Lot A of Bar P-S Subdivision, located in the W1/2 SW1/4, Section 20, T1N, R9E, BHM, Pennington County, South Dakota, more generally described as being located adjacent to the southwest curve of North Airport Road.

Planning Commission recommended that the Preliminary Plat be continued

to the February 8, 2007 Planning Commission meeting.

8. No. 06PL169 - Section 7, T1S, R7E

A request by Boschee Engineering for Dr. Don Oliver to consider an application for a **Preliminary Plat** on Lots 1 thru 3, Block 1, Oliver Subdivision, located in the NE1/4 SE1/4, Section 7, T1S, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as the NE1/4 SE1/4, Section 7, T1S, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located northwest of the intersection of Wilderness Canyon Road and 47th Avenue West.

Planning Commission recommended that the Preliminary Plat be continued to the January 25, 2007 Planning Commission meeting to allow the applicant to submit additional information.

11. No. 06PL183 - Devine Subdivision

A request by Sperlich Consulting, Inc. for Jeffrey L. Devine to consider an application for a **Preliminary Plat** on a portion of Tract B of the SW1/4 SW1/4, less Lot H-1 of Tract B, located in the SW1/4 S1/4, Section 32, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 262 North Cambell Street.

Planning Commission recommended that the Preliminary Plat be continued to the January 25, 2007 Planning Commission meeting to allow the applicant to submit the required information.

12. No. 06PL185 - Moon Meadows Estates

A request by Renner & Associates for John Duffield to consider an application for a **Preliminary Plat** on Lots 25 and 25 of Block 3 of Moon Meadows Estates, Section 34, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at the southern terminus of North Star Road.

Planning Commission recommended that the Preliminary Plat be approved with the following stipulations:

1. **Prior to Preliminary Plat approval by the City Council, information on depth and type of soil, capacity of septic tanks and percolation tests demonstrating that the soils are suitable for on-site wastewater treatment systems must be submitted for review and approval;**
2. **Prior to Preliminary Plat approval by the City Council, data to confirm that the well(s) have sufficient domestic flows and water quality must be submitted for review and approval;**
3. **Prior to Preliminary Plat approval by the City Council, the applicant shall dedicate an additional five feet of right-of-way for the cul-de-sac and submit construction plans for North Star Road for review and approval or obtain a Variance to the Subdivision Regulations;**
4. **Prior to Preliminary Plat approval by the City Council, the applicant shall obtain a Special Exception to allow a cul-de-sac in excess of 1,200 feet and to waive the requirement to provide intermediate**

turnarounds or the street must be redesigned to comply with the **Street Design Criteria Manual**;

5. **Prior to Preliminary Plat approval by the City Council, the applicant shall submit a revised plat document with lot lines radial to the cul-de-sac for review and approval or obtain a Variance to the Subdivision Regulations; and,**
6. **Upon submittal of a Final Plat application, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fees shall be paid.**

15. No. 06SR083 - Rapid City Greenway Tract

A request by Thomas P. Horan for the South Dakota Department of Transportation to consider an application for a **SDCL 11-6-19 Review to allow the construction of a Bike Path on public property** on Tract 17 of Rapid City Greenway Tract, Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1520 W. Omaha Street.

Planning Commission approved the SDCL 11-6-19 Review to allow the construction of a bike path on public property with the following stipulations:

1. **The bike path shall be constructed of concrete material;**
2. **A Floodplain Development permit shall be obtained for any construction located in the 100 Year Federally Designated Floodplain;**
3. **A Right-of-way Permit shall be obtained prior to construction of the bike path within the section line highway;**
4. **Prior to start of construction, the construction plans for the bike path including the location of existing utilities shall be submitted for review and approval.**

17. No. 06SR085 - Rapid City Regional Airport

A request by Vantage Point Solutions for Golden West Technologies to consider an application for a **SDCL 11-6-19 Review to allow the construction of telecommunication cable on public property** on the unplatted W1/2 of Rapid City Regional Airport Subdivision No. 6, unplatted, Section 17, T1N, R9E, Rapid City, Pennington County, South Dakota, more generally described as being located at 4200 Airport Road.

Planning Commission approved the SDCL 11-6-19 Review to allow the construction of telecommunication cable on public property with the following stipulation:

1. **A Flood Plain Development Permit shall be obtained prior to any construction within the 100 Year Federally Designated Floodplain.**

18. No. 06SR087 - South Dakota Highway 44

A request by Dream Design International, Inc. to consider an application for a **SDCL 11-6-19 Review to construct a 14 inch water main** on a parcel of land more particularly described as follows: beginning on the north side of East Saint Charles Street approximately 300' west of the intersection of East Saint Charles

Street and South Valley Drive; thence east along East St. Charles approximately 300' to the east side of S. Valley Drive and E. St. Charles intersection; thence north along the east side of South Valley Drive for approximately 220' to the south side of Hwy 44; thence 1,186' southeast (parallel to Hwy. 44) to the proposed Hwy. 44 crossing location, thence a south to north directional bore 85' in length crossing Hwy 44 to the north side of the Hwy 44 Right-of-Way; thence southeast approximately 1,062' (to the former East Saint Patrick Street overpass); thence northeast along the east side of Lancer Drive for approximately 1,865' crossing Concourse Drive; thence northeast to north along the west side of Elk Vale Road Right-of-Way for approximately 3,247' to Homestead Street, more generally described as being located adjacent to SD Highway 44 and Elk Vale Road.

Planning Commission approved the SDCL 11-6-19 Review to construct a 14 inch water main.

---END OF NON HEARING ITEMS CONSENT CALENDAR---

2. No. 06CA036 - Fountain Springs Park Subdivision

A request by CETEC Engineering Services, Inc. for Franklin O. Simpson to consider an application for **Summary Adoption Action on an Amendment to the Comprehensive Plan to revise the Major Street Plan to relocate a minor arterial street** on a parcel of land in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 26 and the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 27, T2N, R7E, B.H.M., Rapid City, Pennington County, South Dakota being more particularly described as follows: Beginning at the Northwest corner of Tract B of Fountain View Subdivision as recorded in Book 29, Page 239, said point being monumented with an Iron rod; Thence S72 $^{\circ}$ 10'55"W along the Right-of-Way of Harmony Heights Lane a distance of 319.49 feet to a point; Thence along the Right-of-Way of Harmony Heights Lane through a curve to the right having a radius of 229.63 feet, a distance of 3.70 feet; Thence S00 $^{\circ}$ 02'56"E 469.04 feet to a point on the South line of the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 27; Thence N89 $^{\circ}$ 41'23"E 114.61 feet along said South line to a point on the East line of the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 27 monumented with an Iron rod; Thence N89 $^{\circ}$ 55'39"E 390.12 feet along the South line of the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 26 to a point; Thence N00 $^{\circ}$ 01'21"W 325.13 feet to a point; Thence S89 $^{\circ}$ 58'39"W 122.54 feet to a point; Thence N24 $^{\circ}$ 44'05"E 64.04 feet to a point on the 125 foot radius non-tangent curve of said Tract B that concaves to the Northeast; Thence along said curve to a chord intersect point N41 $^{\circ}$ 33'15"W at a distance of 100.51 feet; Thence N17 $^{\circ}$ 50'42"W 113.81 feet along the west line of said Tract B to the Point of Beginning, more generally described as being located south of Harmony Heights Lane.

Jim Bailey, area resident, expressed his opinion that the legal description is incorrect. Discussion followed.

Hennies moved, LeMay seconded and unanimously carried to recommend that the Summary Adoption Action on an Amendment to the Comprehensive Plan to revise the Major Street Plan to relocate a minor arterial street be continued to the January 25, 2007 Planning Commission

meeting. (7 to 0 with Anderson, Brewer, Derby, Gregg, Hennies, LeMay and Runde voting yes and none voting no)

9. No. 06PL176 - Blake Estates

A request by Renner & Associates for Rob Livingston to consider an application for a **Preliminary Plat** on Lots 1 thru 15 of Block 1 of Blake Estates Subdivision, Section 18, T1N, R7E, BHM, Pennington County, South Dakota, legally described as Tract A of Government Lot 1 and Tract A of Government Lot 2, Section 18, T1N, R7E, BHM, Pennington County, South Dakota, more generally described as being located northwest of the intersection of Blake Road and West Highway 44.

Elkins presented the staff recommendation to continue the Preliminary Plat request to the February 8, 2007 Planning Commission meeting at the applicant's request.

Hennies moved, Anderson seconded and unanimously carried to recommend that the Preliminary Plat be continued to the February 8, 2007 Planning Commission meeting to allow the applicant to submit additional information. (7 to 0 with Anderson, Brewer, Derby, Gregg, Hennies, LeMay and Runde voting yes and none voting no)

10. No. 06PL178 - Catron Crossing Subdivision

A request by Boschee Engineering for OTS, Inc. to consider an application for a **Preliminary Plat** on Lots 1 thru 8 of Block 1, lots 1 thru 8 of Block 2, Lots 1 thru 17 of Block 3, and lots 1 thru 9 of Block 4, located in the SW1/4 SW1/4, W1/2 SE1/4 SW1/4, Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as the SW1/4 SW1/4 W1/2 SE1/4 SW1/4, Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at the southern terminus of Bendt Drive.

Fast Wolf arrived at this time.

Steve Brenden, area resident expressed his concerns with the possible negative impact of drainage from the subject property.

Hennies moved, LeMay seconded and unanimously carried to recommend that the Preliminary Plat be continued to the January 25, 2007 Planning Commission meeting to allow the applicant to submit the required information. (8 to 0 with Anderson, Brewer, Derby, Fast Wolf, Gregg, Hennies, LeMay and Runde voting yes and none voting no)

Elkins requested that Items 13, 14 and 16 be taken concurrently.

13. No. 06SR075 - Section 29, T1N, R7E

A request by Buell Consulting, Inc. for Cellular Inc. Network Corporation to consider an application for a **SDCL 11-6-19 Review to allow the construction of a communication facility** on Lot 1, located in the SE1/4 SW1/4, less Lot H1

and less Right-of-way, Section 29, T1N, R7E, BHM, Pennington County, South Dakota, more generally described as being located at 7800 Alberta Drive.

14. No. 06SR077 - Section 4, T1S, R8E
A request by Buell Consulting, Inc. for Cellular Inc. Network Corporation to consider an application for a **SDCL 11-6-19 Review to allow the construction of a communication facility** on Government Lot 4, except the east 410 feet, Section 4, T1S, R8E, BHM, Pennington County, South Dakota, more generally described as being located at 9200 South Highway 79.

16. No. 06SR084 - Section 8, T1S, R7E
A request by John M. Rowe, Buell Consulting, Inc. for Cellular Inc. Network Corporation d/b/a Verizon Wireless to consider an application for a **SDCL 11-6-19 Review to allow the construction of a cellular tower and accessory structures** on the NW1/4 of the SE1/4, including Lot X, except the Highway Right-of-Way and except Lot 1R of Wooded Acres Subdivision (including Wooded Acres Road), Section 8, T1S, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 13752 South Highway 16.

Elkins presented the staff's recommendation to continue the SDCL 11-6-19 Review requests to the March 22, 2007 Planning Commission meeting at the applicant's request.

LeMay moved, Hennies seconded and unanimously carried to continue the Application No. 06SR075, an SDCL 11-6-19 Review to allow the construction of a communication facility, Application No. 06SR084 an SDCL 11-6-19 Review to allow the construction of a communication facility, and Application No. 06SR084 an SDCL 11-6-19 Review to allow the construction of a cellular tower and accessory structures to the March 22, 2007 Planning Commission meeting at the applicant's request. (8 to 0 with Anderson, Brewer, Derby, Fast Wolf, Gregg, Hennies, LeMay and Runde voting yes and none voting no)

Brewer announced that the Public Hearings on Items 19 through 35 were opened.

Staff requested that Items 24 and 34 be removed from the Hearing Consent Agenda for separate consideration.

LeMay requested that Items 23 be removed from the Hearing Consent Agenda for separate consideration.

Anderson moved, Runde seconded and unanimously carried to recommend approval of the Hearing Consent Agenda Items 19 through 35 in accordance with the staff recommendations with the exception of Items 23, 24 and 34. (8 to 0 with Anderson, Brewer, Derby, Fast Wolf, Gregg, Hennies, LeMay and Runde voting yes and none voting no)

The Public Hearings for Items 19 through 35 were closed.

---HEARING ITEMS CONSENT CALENDAR---

19. No. 05VR014 - Sletten Addition

A request by Sperlich Consulting, Inc. for Doeck, LLC to consider an application for a **Vacation of Section Line Highway** on that portion of the statutory Section Line Right-of-Way lying in the NE1/4, SE1/4, Section 13, T2N, R7E, and that portion of the statutory Section Line Right-of-Way, lying in Tract 5, Sletten Addition, located in the NW1/4, SW1/4, Section 18, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at the northwest corner of the north to east curve of West Nike Road.

Planning Commission recommended that the Vacation of Section Line Highway request be continued to the January 25, 2007 Planning Commission meeting.

20. No. 06CA028 - Rushmore Crossing

A request by Dream Design International, Inc. to consider an application for an **Amendment to the Comprehensive Plan to amend the Major Street Plan to change an arterial street to a collector street, to eliminate a collector street and to relocate a collector street** on Parcel 1 thru 15 and detention ponds, Rushmore Crossing, Sections, 29, 30, 32, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as DESCRIPTION No. 1: Lot BR of Lot 2 of the SE1/4 SW1/4, Section 29 in T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, as shown on the plat filed in Plat Book 15, Page 103; DESCRIPTION No. 2: Lot C of Lot 2 of the SE1/4 SW1/4, Section 29, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, as shown on the plat filed in Plat Book 15, Page 103; DESCRIPTION No. 3: Tract C of the SW1/4, Section 29, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, as shown on the plat filed in Plat Book 11, Page 68; DESCRIPTION No. 4: that portion of the SW1/4, Section 29, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, lying South of Lot H3 of said SW1/4 as shown on the plat filed in Highway Plat Book 3, Page 109 and lying South of Lot H1 of said SW1/4 as shown on the plat filed in Highway Plat Book 3, Page 113 and lying South of Lot H2 of said SW1/4 as shown on the plat filed in Highway Plat Book 3, Page 292 and lying South of Lot H4 of said SW1/4 as shown on the plat filed in Highway Plat Book 10, Page 150 (Interstate 90 right-of-way) and lying North of the Railroad right-of-way; excepting therefrom Lot A of the SE1/4 SW1/4, as shown on the plat filed in Plat Book 10, Page 122; AND excepting therefrom Tract C of said SW1/4, as shown on the plat filed in Plat Book 11, Page 68; and excepting therefrom Lot IR, Lot BR of Lot 2 and Lot C of Lot 2 of the SE1/4 SW1/4, as shown on the plat filed in Plat Book 15, Page 103; and excepting therefrom the W1/2 SW1/4 SW1/4 SW1/4 lying North of said Tract C; DESCRIPTION No. 5: that portion of the N1/2 SE1/4 lying South of Lots H1 and H2 of said N1/2 SE1/4 as shown on the plat filed in Highway Plat Book 3, Page 288 and lying South of Lot H3 of said N1/2 SE1/4 as shown on the plat filed in Highway Plat Book 10, Page 148 (Interstate 90 right-of-way) and the N1/2 NE1/4 SE1/4 SE1/4, Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota; excepting therefrom Lot D of the NW1/4 SE1/4 as shown on the plat filed

in Plat Book 7, Page 70; and excepting therefrom Lots E and M of the NW1/4 SE1/4 as shown on the plat filed in Plat Book 7, Page 71; and excepting therefrom Lots C and L of the NW1/4 SE1/4 as shown on the plat filed in Plat Book 8; Page 132; and excepting therefrom Tract 1 of Flack - Hendricksen Subdivision of the NW1/4 SE1/4 as shown on the plat filed in Plat Book 16, Page 205; and excepting therefrom Lots 1 and 2 in Block 2 of Rapps Addition of the NW1/4 SE1/4 as shown on the plat filed in Plat Book 23, Page 166; and excepting therefrom Lots 1 and 2 of Bedco Subdivision of the NW1/4 SE1/4 as shown on the plat filed in Plat Book 26, Page 61; and excepting therefrom any dedicated streets, avenues or alleys lying within said plats; and excepting therefrom the Lot H1 of the S1/2 N1/2 SE1/4 as shown on the plat filed in Highway Plat Book 10, Page 163; and excepting therefrom that portion of the SE1/4 NW1/4 SE1/4 and that portion of the SW1/4 NE1/4 SE1/4 lying south of said Lot H1 of the S1/2 N1/2 SE1/4 as shown on the plat filed in Highway Plat Book 10, Page 163; DESCRIPTION No. 6: Lot 1R, located in the SE1/4 SW1/4, Section 29, T2N, R8E, BHM, Pennington County, South Dakota; DESCRIPTION No. 7: Lot 1 of the SW1/4 SE1/4, Section 29, T2N, R8E, BHM, Pennington County, South Dakota; DESCRIPTION No. 8: Lot A of lot 2, located in the SE1/4 SW1/4, Section 29, T2N, R8E, BHM, Pennington County, South Dakota; DESCRIPTION No. 9: A portion of the unplatted portion of the SE1/4 NW1/4 SE1/4, Section 30, T2N, R8E, BHM, Pennington County, South Dakota; DESCRIPTION No. 10: the unplatted portion of the SW1/4 NE1/4 SE1/4, Section 30, lying south of Lot H1, T2N, R8E, BHM, Pennington County, South Dakota; DESCRIPTION No. 11: the unplatted portion of the SW1/4 SE1/4, Section 30, T2N, R8E, BHM, Pennington County, South Dakota; DESCRIPTION No. 12: the unplatted portion of the SE1/4 SE1/4 and excepting therefrom the N1/2 NE1/4, SE1/4 SE1/4, Section 30, T2N, R8E, BHM, Pennington County, South Dakota; DESCRIPTION No. 13: the W1/2 SW1/4, SW1/4 SW1/4, Section 29, lying north of Tract C, T2N, R8E, BHM, Pennington County, South Dakota; and, DESCRIPTION No. 14: the Farnwood Avenue Right of Way, located in the SW1/4 SE1/4, Section 30, T2N, R8E, BHM, Pennington County, South Dakota, more generally described as being located south of I-90 between North LaCrosse Street and East North Street.

Planning Commission recommended that the Amendment to the Comprehensive Plan to amend the Major Street Plan to change an arterial street to a collector, to eliminate a collector street and to relocate a collector street be continued to the January 25, 2007 Planning Commission meeting to allow the applicant to submit an updated Traffic Impact Study.

21. No. 06CA052 - Auburn Hills Subdivision

A request by the City of Rapid City to consider an application for an **Amendment to the Comprehensive Plan by revising the Long Range Comprehensive Plan to change the land use designation from General Agriculture to Residential** on a 33 foot wide strip of land adjacent to the easterly boundary of the N1/2 of the SE1/4 of the SE1/4, and a 33 foot wide strip of land adjacent to the easterly boundary of the NE1/4 of the SE1/4 of the NE1/4, and a 33 foot wide strip of land adjacent to the easterly boundary of the SE1/4 of the SE1/4 of the NE1/4; and a 33 foot wide strip of land adjacent to the easterly boundary of the NE1/4 of the SE1/4, all located in Section 14, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located

west of Haines Avenue and north of Country Road West.

Planning Commission recommended that the Amendment to the Comprehensive Plan by revising the Long Range Comprehensive Plan to change the land use designation from General Agriculture to Residential be approved.

22. No. 06OA007 - Ordinance Amendment

A request by the City of Rapid City to consider an application for an **Ordinance Amendment to Section 17.12.030 to allow adult day care centers as a conditional use in the Medium Density Residential Zoning District.**

Planning Commission recommended that the Ordinance Amendment to Section 17.12.030 to allow adult day care centers as a conditional use in the Medium Density Residential Zoning District be approved.

25. No. 06RZ048 - Section 10, T1N, R8E

A request by the City of Rapid City to consider an application for a **Rezoning from No Use District to General Commercial District** on all of the dedicated right-of-way adjacent to the westerly boundary of Lot A-revised, formerly Lot A of Plat 1, located in the NW1/4 of the SW1/4, lying south of the Railroad Right-of-way, located in the NW1/4 of the SW1/4, Section 10, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located south of the intersection of East Highway 44 and Jolly Lane.

Planning Commission recommended that the Rezoning from No Use District to General Commercial District be approved.

26. No. 06RZ052 - Section 9, T1N, R8E

A request by the City of Rapid City to consider an application for a **Rezoning from No Use District to Low Density Residential District** on all of the eastern most 33 feet of section line right-of-way lying south of the Railroad Right-of-Way located in the SE1/4, Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, also known as Jolly Lane; and all of the dedicated right-of-way adjacent to Lots 1 thru 9 of Lot A of the E1/2 of the SE1/4, also known as Martin Lane, located in Section 9; and all of the western most 33 feet of section line right-of-way located in the SW1/4 of Section 10, lying south of the Railroad right-of-way directly east of Lots 1 thru 9 of Lot A of the E1/2 of the SE1/4, located in Section 9, and all of the dedicated right-of-way adjacent to Lots 1 thru 9 of Helmens Subdivision, also known as Toni Lane, located in Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and all of the section line right-of-way adjacent to Lots 1 thru 9 of Helmens Subdivision located in Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located southwest of the intersection of Jolly Lane and E. Highway 44.

Planning Commission recommended that the Rezoning from No Use District to Low Density Residential District be approved.

27. No. 06RZ063 - Sections 10 and 15, T1N, R8E

A request by the City of Rapid City to consider an application for a **Rezoning from No Use District to Low Density Residential II District** on all of the western most 33 feet of the section line right-of-way beginning at the northwest corner of Section 15, T1N, R8E, extending south approximately 1,039.08 feet in the NW1/4 of the NW1/4 of Section 15, T1N, R8E, BHM; and the section line right-of-way adjacent to Lots 1 and 2 of Lot D of the E1/2 of the SE1/4 of Section 9, T1N, R8E, BHM; and the section line right-of-way beginning at the southwest corner of Section 10, thence northerly 833.30 feet in Section 10, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located on the right-of-way south of East Highway 44 and Jolly Lane.

Planning Commission recommended that the Rezoning from No Use District to Low Density Residential II District be approved.

28. No. 06RZ064 - Section 15, T1N, R8E

A request by the City of Rapid City to consider an application for a **Rezoning from No Use District to Medium Density Residential District** on all of the western most 33 feet of section line right-of-way extending south beginning 1,039.08 feet of the northwest corner of Section 15 extending 190.92 feet more or less south from that point, all located in the NW1/4 of the NW1/4 of Section 15, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located on Jolly Lane.

Planning Commission recommended that the Rezoning from No Use District to Medium Density Residential District be approved.

29. No. 06RZ068 - Auburn Hills Subdivision

A request by the City of Rapid City to consider an application for a **Rezoning from No Use District to Medium Density Residential District** on a 33 foot wide strip of land adjacent to the easterly boundary of the NE1/4 of the SE1/4 of the NE1/4, all located in Section 14, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located west of Haines Avenue and north of Country Road West.

Planning Commission recommended that the Rezoning from No Use District to Medium Density Residential District be continued to the January 25, 2007 Planning Commission meeting to allow the application to be legally advertised.

30. No. 06RZ069 - Auburn Hills Subdivision

A request by the City of Rapid City to consider an application for a **Rezoning from No Use District to Low Density Residential District** on a 33 foot wide strip of land adjacent to the easterly boundary of the SE1/4 of the SE1/4 of the NE1/4; and a 33 foot wide strip of land adjacent to the easterly boundary of the NE1/4 of the SE1/4, all located in Section 14, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located west of Haines Avenue and north of Country Road West.

Planning Commission recommended that the Rezoning from No Use District to Low Density Residential District be continued to the January 25, 2007 Planning Commission meeting to allow the application to be legally advertised.

31. No. 06RZ070 - Auburn Hills Subdivision

A request by the City of Rapid City to consider an application for a **Rezoning from No Use District to Medium Density Residential District** on 33 foot wide strip of land adjacent to the easterly boundary of the N1/2 of the SE1/4 of the SE1/4, all located in Section 14, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located west of Haines Avenue and north of Country Road West.

Planning Commission recommended that the Rezoning from No Use District to Medium Density Residential District be continued to the January 25, 2007 Planning Commission meeting to allow the application to be legally advertised.

32. No. 06SV066 - Section 7, T1S, R7E

A request by Boschee Engineering for Dr. Don Oliver to consider an application for a **Variance to the Subdivision Regulations to waive the Requirement to install curb, gutter, sidewalk, street light conduit, water, sewer, pavement; and to allow 10 foot wide dirt road to serve as access to Lot 1 and to allow Wilderness Canyon Road to remain a 24 foot paved street with water as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 1 thru 3, Block 1, Oliver Subdivision, located in the NE1/4 SE1/4, Section 7, T1S, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as the NE1/4 SE1/4, Section 7, T1S, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located northwest of the intersection of Wilderness Canyon Road and 47th Avenue West.

Planning Commission recommended that the Variance to the Subdivision Regulations to waive the Requirement to install curb, gutter, sidewalk, street light conduit, water, sewer, pavement along Wilderness Canyon Road and an access easement as per Chapter 16.16 of the Rapid City Municipal Code be continued to the January 25, 2007 Planning Commission meeting to allow the applicant to submit additional information.

33. No. 06SV074 - Moon Meadows Estates

A request by Renner & Associates for John Duffield to consider an application for a **Variance to the Subdivision Regulations to waive the requirement to install sewer, water, curb, gutter, pavement, street light conduit and sidewalks as per Chapter 16 of the Rapid City Municipal Code** on Lots 24R and 25R of Block 3 of Moon Meadows Estates, Section 34, T1N, R7E, BHM, Pennington County, South Dakota, legally described as Lots 24 and 25 of Block 3 of Moon Meadows Estates, Section 34, T1N, R7E, BHM, Pennington County, South Dakota, more generally described as being located at the southern terminus of North Star Road.

Planning Commission recommended that the Variance to the Subdivision Regulations to waive the requirements to install sewer, water, curb, gutter, pavement, street light conduit and sidewalks as per Chapter 16 of the Rapid City Municipal Code be approved with the following stipulation:

- 1. Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessment for the improvements.**

*35. No. 06UR024 - Kormylo Subdivision

A request by Fisk Land Surveying and Consulting Engineers, Inc. for Rebecca and Robert Goosen to consider an application for a **Conditional Use Permit to allow the slaughter of animals and a meat processing and retail facility** on Lot A of Tract 2 of Kormylo Subdivision, located in Section 17, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located northeast of the intersection of South Dakota Highway 79 and Minnesota Street.

Planning Commission continued the Conditional Use Permit to allow the slaughter of animals and a meat processing and retail facility to the January 25, 2007 Planning Commission meeting at the applicant's request.

The Rapid City Planning Commission's action on this item is final unless any party appeals that decision to the Rapid City Council. All appeals must be submitted in writing to the Growth Management Department by close of business on the seventh full calendar day following action by the Planning Commission.

---END OF HEARING CONSENT CALENDAR---

23. No. 06OA008 - Ordinance Amendment

A request by the City of Rapid City to consider an application for an **Ordinance Amendment to Section 16.04.320 B(3) to allow exceptions for unplatted properties when land is acquired by federal, state, county or municipal authorities for highway purposes.**

In response to LeMay's question, Elkins presented the reasons for the Ordinance Amendment.

LeMay moved, Anderson seconded and unanimously carried to recommend that the Ordinance Amendment revising Section 16.04.320 B(3) to allow exceptions for unplatted properties when land is acquired by federal, state, county or municipal authority for highway purposes be approved. (8 to 0 with Anderson, Brewer, Derby, Fast Wolf, Gregg, Hennies, LeMay and Runde voting yes and none voting no)

*24. No. 06PD097 - Vista Lake Subdivision No. 2

A request by John M. Rowe, Buell Consulting, Inc. for Cellular, Inc. Network Corporation d/b/a Verizon Wireless to consider an application for a **Major Amendment to a Planned Residential Development to allow the**

construction of a cellular tower and accessory structures on Lot 1 of Vista Lake Subdivision No. 2, Section 8, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 4600 Jackson Boulevard.

Elkins presented the staff's recommendation to continue the Major Amendment request to the March 22, 2007 Planning Commission meeting at the applicant's request.

Hennies moved, Gregg seconded and unanimously carried to continue the Major Amendment to a Planned Residential Development to allow the construction of a cellular tower and accessory structures to the March 22, 2007 Planning Commission meeting. (8 to 0 with Anderson, Brewer, Derby, Fast Wolf, Gregg, Hennies, LeMay and Runde voting yes and none voting no)

The Rapid City Planning Commission's action on this item is final unless any party appeals that decision to the Rapid City Council. All appeals must be submitted in writing to the Growth Management Department by close of business on the seventh full calendar day following action by the Planning Commission.

34. No. 06SV075 - Blake Estates

A request by Renner & Associates for Rob Livingston to consider an application for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement along the Section Line Highway and to waive the requirement to allow a lot twice as long as it is wide as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 1 thru 15 of Block 1 of Blake Estates Subdivision, Section 18, T1N, R7E, BHM, Pennington County, South Dakota, legally described as Tract A of Government Lot 1 and Tract A of Government Lot 2, Section 18, T1N, R7E, BHM, Pennington County, South Dakota, more generally described as being located north of the intersection of West Highway 44 and Blake Road.

Elkins presented the staff recommendation to continue the Variance request to the February 8, 2007 Planning Commission meeting at the applicant's request.

Hennies moved, LeMay seconded and unanimously carried to recommend that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement along the Section Line Highway and to waive the requirement to allow a lot twice as long as it is wide as per Chapter 16.16 of the Rapid City Municipal Code be continued to the February 8, 2007 Planning Commission meeting at the applicant's request. (8 to 0 with Anderson, Brewer, Derby, Fast Wolf, Gregg, Hennies, LeMay and Runde voting yes and none voting no)

---BEGINNING OF REGULAR AGENDA ITEMS---

Elkins requested that items 36 and 37 be taken concurrently.

*36. No. 06PD098 - Madison's Subdivision

A request by DGM/Echo Development to consider an application for a **Planned Residential Development - Final Development Plan** on Lots 10 and 11 of Madison's Subdivision, located in the SE1/4 of the SW1/4, Section 13, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 4325 and 4385 Haines Avenue.

37. No. 06PL108 - Madison's Subdivision

A request by DGM Development to consider an application for a **Preliminary Plat** on Lots 1 thru 190, Madison's Subdivision, located in the SE1/4 SW1/4, Section 13, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lots 10 and 11, Madison's Subdivision, located in the SE1/4 SW1/4, Section 13, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 4325 and 4385 Haines Avenue.

Elkins presented the staff's recommendation to acknowledge the applicant's withdrawal of the Planned Residential Development and Preliminary Plat requests. Discussion followed.

Runde stated that she would be abstaining from the discussion and vote due to a conflict of interest.

Hennies moved, LeMay seconded and carried to acknowledge the applicant's withdrawal of the Planned Residential Development - Final Development Plan and recommend that City Council acknowledge the applicant's withdrawal of the Preliminary Plat. (7 to 0 to 1 with Anderson, Brewer, Derby, Fast Wolf, Gregg, Hennies and LeMay voting yes and none voting no and Runde abstaining)

38. No. 06PL123 - Cambell Square Addition

A request by Renner Associates for Rande Robinson to consider an application for a **Layout Plat** on Lots 9R and 10R, formerly Lots 9 and 10, Cambell Square Addition, located in Government Lot 4, Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lots 9 and 10, Cambell Square Addition, located in Government Lot 4, Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1410 Centre Street.

Tegethoff presented the Layout Plat request and staff recommendation to deny the Layout Plat request without prejudice.

In response to Brewer's question, Tegethoff stated that the application was submitted on July 20, 2006. Discussion followed.

Anderson moved, Gregg seconded and unanimously carried to

recommended that the Layout Plat be denied without prejudice. (8 to 0 with Anderson, Brewer, Derby, Fast Wolf, Gregg, Hennies, LeMay and Runde voting yes and none voting no)

Fisher requested that Items 39 and 40 be taken concurrently.

39. No. 06PL175 - LJS Subdivision

A request by Fisk Land Surveying for Judy Lien to consider an application for a **Layout Plat** on Lots 2, 3 and 4 of LJS Subdivision, formerly a portion of the unplatted balance of the NW1/4, Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the unplatted balance of the NW1/4, Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located on Maple Avenue and Mall Drive.

40. No. 06SV069 - LJS Subdivision

A request by Fisk Land Surveying for Judy Lien to consider an application for a **Variance to the Subdivision Regulations to waive the requirement to install sidewalks, curb, gutter, street light conduit, sewer and water main along Mall Drive and N. Maple Avenue and to reduce the pavement width from 40 feet to 26 feet along Mall Drive as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 2, 3 and 4 of LJS Subdivision, formerly a portion of the unplatted balance of the NW1/4, Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the unplatted balance of the NW1/4, Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located on Maple Avenue and Mall Drive.

Fisher presented the Layout Plat and Variance requests. Fisher stated that staff recommends that the Layout Plat be approved with stipulations and the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk and street light conduit and to reduce the pavement width from 40 feet to 26 feet along Mall Drive be approved with stipulations, That the Variance to the Subdivision Regulations to waive the requirement to install sewer along Mall Drive be approved with one stipulation, That the Variance to the Subdivision Regulations to waive the requirement to install water along Mall Drive be denied without prejudice, That the Variance to the Subdivision Regulations to waive the requirement to install sewer along N. Maple Avenue be approved with one stipulation, That the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter and street light conduit along N. Maple Avenue be denied without prejudice; and, That the Variance to the Subdivision Regulations to waive the requirement to install water and sidewalk along N. Maple Avenue be denied.

In response to LeMay's question, Fisher identified the proposed layout of the sidewalks on the subject property. Discussion followed.

In response to Anderson's questions, Fisher reviewed the future and existing locations of the sewer lines on the proposed development. Discussion followed.

Dave Jones, adjacent property owner expressed concerns for the impact on existing tenant. Discussion followed.

LeMay expressed his opinion in support of the variance to install sidewalk. Elkins identified the requirement for the applicant to install sidewalk as part of the building permit process.

Anderson moved, Gregg seconded and unanimously carried to recommend that the Layout Plat be approved with the following stipulations:

- 1. Upon submittal of a Preliminary Plat application, a geotechnical report including pavement design shall be submitted for review and approval. In addition, the geotechnical report shall include soils resistivity test results. If the results indicate severe potential towards corrosion of buried metal, then information shall be provided identifying that corrosion protection per Rapid City Standard Specifications is adequate protection or additional corrosion protections shall be provided as needed for buried water system metal fixtures;**
- 2. Upon submittal of a Preliminary Plat application, a grading plan and an erosion and sediment control plan for all improved areas shall be submitted for review and approval;**
- 3. Upon submittal of a Preliminary Plat application, a drainage plan in compliance with the Knollwood Drainage Basin and the Box Elder Drainage Basin shall be submitted for review and approval. In particular, the drainage plan shall demonstrate that the design does not result in the interbasin transfer of drainage. In addition, the drainage plan shall include calculations demonstrating that developed flows from the site do not exceed pre-developed flows or local detention facilities must be provided or expanded as necessary. The plat document shall also be revised to provide drainage easements as needed;**
- 4. Upon submittal of a Preliminary Plat application, sewer plans prepared by a Registered Professional Engineer showing the extension of sanitary sewer mains and service lines shall be submitted for review and approval or a Variance to the Subdivision Regulations shall be obtained. In particular, the applicant shall enter into an agreement with the City to fund that portion of the sewer main extension along Mall Drive as it abuts Lot 2 or the applicant shall extend the sewer main as a part of this plat. In addition, the plat document shall also be revised to provide utility easements as needed;**
- 5. Upon submittal of a Preliminary Plat application, water plans prepared by a Registered Professional Engineer showing the extension of water mains shall be submitted for review and approval or a Variance to the Subdivision Regulations shall be obtained. In addition, the water plans shall demonstrate that adequate fire and domestic flows are being provided. The plat document shall also be revised to provide utility easements as needed;**
- 6. Upon submittal of a Preliminary Plat application, road construction**

plans for Mall Drive shall be submitted for review and approval. In particular, the construction plans shall show the street constructed with a minimum 40 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer or a Variance to the Subdivision Regulations shall be obtained;

7. Upon submittal of a Preliminary Plat application, road construction plans for N. Maple Avenue shall be submitted for review and approval. In particular, the construction plans shall show the street constructed with curb, gutter, sidewalk, street light conduit, water and sewer or a Variance to the Subdivision Regulations shall be obtained;
8. Upon submittal of the Preliminary Plat application, a fire hydrant design plan showing the location of fire hydrants and water lines, including the size of the proposed water lines, shall be submitted for review and approval or a Variance to the Subdivision Regulations waiving the requirement to provide a central water system shall be obtained. In addition, the International Fire Code shall be continually met;
9. Upon submittal of a Preliminary Plat application, a cost estimate of the subdivision improvements shall be submitted for review and approval;
10. Upon submittal of a Preliminary Plat application, the plat document shall be revised to show non-access easements as per the Street Design Criteria Manual. In particular, a non-access easement shall be shown along Mall Drive or an Exception to the Street Design Criteria Manual shall be obtained to allow access from the higher order street;
11. Prior to submittal of a Final Plat application, the plat document shall be revised to read "N. Maple Avenue" in lieu of "Maple Avenue";
12. Upon submittal of a Final Plat application, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fees shall be paid; and,
13. Prior to the City's acceptance of the public improvements, a warranty surety shall be submitted for review and approval as required.

That the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk and street light conduit and to reduce the pavement width from 40 feet to 26 feet along Mall Drive be approved with the following stipulations:

1. Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessment for the improvements; and,
2. Access shall not be taken from Mall Drive.

That the Variance to the Subdivision Regulations to waive the requirement to install sewer along Mall Drive be approved with the following stipulation:

1. Prior to City Council approval, the applicant shall enter into a cost sharing agreement with the City for the cost of extending sewer along Mall Drive as it abuts the subject property;

That the Variance to the Subdivision Regulations to waive the requirement to install water along Mall Drive be denied without prejudice;

That the Variance to the Subdivision Regulations to waive the

requirement to install sewer along N. Maple Avenue be approved with the following stipulation:

1. Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessment for the improvement;
That the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter and street light conduit along N. Maple Avenue be denied without prejudice; and,
That the Variance to the Subdivision Regulations to waive the requirement to install water and sidewalk along N. Maple Avenue be denied. (8 to 0 with Anderson, Brewer, Derby, Fast Wolf, Gregg, Hennies, LeMay and Runde voting yes and none voting no)

41. No. 06SR071 - Forkner Addition

A request by Dream Design International, Inc. to consider an application for an **SDCL 11-6-19 Review to reconstruct an existing street** on Lot A of Lots 7 and 12; Lot B of Lots 7, 8, 9 and 12, Forkner Addition, all located in the NW1/4 SW1/4, Section 32, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located east of the intersection of Cambell Street and E. North Street along the south side of the E. North Street right-of-way.

Elkins presented the staff recommendation to continue the SDCL 11-6-19 Review request to the February 8, 2007 Planning Commission meeting at the applicant's request.

LeMay moved, Hennies seconded and unanimously carried to continue the SDCL 11-6-19 Review to modify an existing road to the February 8, 2007 Planning Commission meeting. (8 to 0 with Anderson, Brewer, Derby, Fast Wolf, Gregg, Hennies, LeMay and Runde voting yes and none voting no)

42. No. 06SR076 - McMahan Industrial Park No. 2

A request by Buell Consulting, Inc. for Cellular Inc. Network Corporation to consider an application for an **SDCL 11-6-19 Review to allow the construction of a communication facility** on Lot 1, Block 10, McMahan Industrial Park No. 2, located in the SW1/4 SE1/4, Section 24, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2870 Haines Avenue.

Tegethoff presented the staff recommendation to continue the SDCL 11-6-19 Review request to the March 22, 2007 Planning Commission meeting at the applicant's request.

LeMay moved, Hennies seconded and unanimously carried to continue the SDCL 11-6-19 Review to allow the construction of a communication facility to the March 22, 2007 Planning Commission meeting. (8 to 0 with Anderson, Brewer, Derby, Fast Wolf, Gregg, Hennies, LeMay and Runde voting yes and none voting no)

43. No. 06SR086 - Section 22, T2N, R7E

A request by Ferber Engineering Company for City of Rapid City to consider an application for a **SDCL 11-6-19 Review for extension of a Sanitary Sewer** on Tract B of Golf Course and Gardens less Tract 13R2 of S F Interstate Plaza, and the unplatted portion of the N1/2 of Section 27 lying north of Interstate 90, Section 27, T2N, R7E, BHM, and the unplatted balance of the SW1/4 lying north and east of Interest 90, Section 22, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located north of Deadwood Avenue between North Plaza Drive and Harley Drive.

Tegethoff presented the SDCL 11-6-19 request and recommendation to approve the request with one stipulation.

Hennies moved, LeMay seconded and unanimously carried to approve the SDCL 11-6-19 Review to allow the extension of a sewer main with the following stipulation:

- 1. Prior to Planning Commission approval, all necessary changes shall be made to the construction plans as identified on the red lined drawings. In addition, the red lined drawings shall be returned to the Growth Management Department. (8 to 0 with Anderson, Brewer, Derby, Fast Wolf, Gregg, Hennies, LeMay and Runde voting yes and none voting no)**

*44. No. 06PD070 - Section 4, T1N, R7E

A request by J Scull Construction to consider an application 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, more generally described as being located at 1626 Evergreen Street.

Tegethoff presented the Planned Residential Development request and the recommendation to deny the request.

Danny Wegner, Scull Construction asked the Planning Commission to reconsider staff's recommendation to deny the Planned Residential Development request.

In response to LeMay's question, Wegner stated that the amendment to the Planned Residential Development is to provide covered parking. Discussion followed.

In response to Anderson's question, Wegner stated that the garage creates the requirement to expand Evergreen Drive.

Elkins stated that the proposed development was previously approved as part of the building permit process. Elkins further commented that the proposed construction of the garage has created the need for Planned Residential Development – Initial and Final Development Plan request. Elkins stated that staff recommends that the minimum standards identified in the Canyon Lake Overlay District be met.

In response to Runde's question, Wegner explained that that the construction of the garages creates the need to improve Evergreen Drive as per staff recommendations.

Elkins advised that any modification or development of multifamily units is required to meet the standards of the Canyon Lake Overlay District. Elkins stated that Evergreen Drive is substandard and as would need to be improved to meet City standards as part of any approval if the property were to meet the adopted standards. Discussion followed.

In response to Hennies question, Wegner stated that the encroachment issues have been reviewed and found that the development is located within the property boundaries and prescribed set backs.

In response to Hennies question, Tegethoff stated that the original application did not require the applicant to install a six foot privacy fence. Tegethoff stated that as part of the requirements of the Canyon Lake Overlay District the applicant would be required to install a six foot screening fence along the south property line of the subject property and adjacent properties. Discussion followed.

In response to Anderson's question, Elkins confirmed that the as long as the garages were not constructed the applicant could proceed with development if the building permit remains active.

In response to Derby's question, Elkins stated that an approved permit is in existence that would allow the applicant to continue with the original application. Elkins further commented that the new requirements that are part of the Canyon Lake Overlay District allow no new construction for multi-family residential development to occur on substandard streets. Elkins stated that the applicant would be required to improve Evergreen Drive if the project were to meet the adopted ordinances. Discussion followed.

Veda Wojciechowski, area resident expressed her opposition to the proposed development on the subject property. Wojciechowski stated her opinion that the increased traffic combined with the limited access from the subject property would negatively impact the adjacent property owners. Wojciechowski commented that a privacy fence should be installed. Wojciechowski expressed concern for limited emergency vehicle apparatus access.

Steve Brenden, area resident expressed his opposition to the proposed development on the subject property. Brenden requested that the Planning Commission deny the Planned Residential Development request.

LeMay expressed his opposition to the proposed amendment to the approved development on the subject property.

In response to Anderson's question, Knight stated that the proposed development on the subject property meets the minimum fire lane requirements. Discussion followed.

LeMay moved, Hennies seconded to deny the Planned Residential Development - Initial and Final Development Plan without prejudice.

Derby moved, Runde seconded to approve the Planned Residential Development - Initial and Final Development Plan with the following stipulations:

- 1. That the applicant construct a six foot screening fence shall be placed along the side and rear yards located adjacent to single-family/duplex/townhouse dwellings; and**
- 2. The requirement for the applicant to improve Evergreen Drive to City standards is hereby waved.**

Wojciechowski expressed her opinion that the privacy fence is a minor issue. Wojciechowski stated her opposition to the motion to approve the Planned Residential Development. Discussion followed.

Hennies expressed his support of the staff's recommendation to deny the Planned Residential Development request.

Brewer stated that he would be abstaining from discussion and vote due to a conflict of interest.

LeMay moved, Hennies seconded to call the question to suspend debate. (8 to 0 with Anderson, Brewer, Derby, Fast Wolf, Gregg, Hennies, LeMay and Runde voting yes and none voting no)

Derby moved, Runde seconded and carried to approve the Planned Residential Development - Initial and Final Development Plan with the following stipulations:

- 1. That the applicant construct a six foot screening fence shall be placed along the side and rear yards located adjacent to single-family/duplex/townhouse dwellings; and**
- 2. The requirement for the applicant to improve Evergreen Drive to City standards is hereby waved. (4 to 3 to 1 with Anderson, Derby, Fast Wolf and Runde voting yes and Gregg, Hennies, LeMay voting no and Brewer abstaining)**

The Rapid City Planning Commission's action on this item is final unless any party appeals that decision to the Rapid City Council. All appeals must be submitted in writing to the Growth Management Department by close of business on the seventh full calendar day following action by the Planning Commission.

*45. No. 06PD073 - Cottonwoods Subdivision

A request by Fisk Land Surveying & Consulting Engineers, Inc. for Ronneberg Investments, LLC to consider an application for a **Planned Residential Development - Initial and Final Development Plan** on Lots 1, 2, 38, 39 and 40, Block 3, Cottonwoods Subdivision and adjacent vacated railroad lane, Section 9,

T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 3404 Jackson Boulevard and 2040 3rd Avenue.

Fisher presented the Planned Residential Development request and the staff recommendation to approve the Planned Residential Development request with stipulations.

In response to Brewer's question, Fisher stated that the existing hedge provides a major portion of the landscaping points on the subject property.

Donovan Broberg, ARC International, Inc. requested that the Planning Commission approve Planned Development request with the exception of stipulation number one. Broberg requested that the requirement for a ten foot be reduced to five feet. Discussion followed.

Derby expressed his support for the applicant's request to reduce the landscape buffer from ten feet to five feet.

Derby moved, Runde seconded to approve the Planned Residential Development - Initial and Final Development Plan with the following stipulations:

- 1. Prior to Planning Commission approval, the site plan shall be revised to provide a minimum five foot wide landscape buffer as per the minimum design standards of the Canyon Lake Overlay District;**
- 2. Prior to Planning Commission approval, the landscaping plan shall be revised to show only that portion of the hedge located within the site triangle to be removed. The balance of the hedge shall remain in place.**
- 3. Prior to Planning Commission approval, the utility plan shall be revised to preclude extending service lines under the existing hedge, or the applicant shall demonstrate that the service lines will be bored under the existing hedge or, if the hedge is removed, a mature hedge matching the existing hedge shall be planted in the same location;**
- 4. A building permit shall be obtained prior to any construction and a Certificate of Occupancy shall be obtained prior to occupancy;**
- 5. Prior to issuance of a building permit, all necessary changes shall be made to the construction plans as identified on the red lined drawings. In addition, the red lined drawings shall be returned to the Development Service Center Division;**
- 6. Prior to issuance of a building permit, an additional six feet of right-of-way shall be dedicated along Second Avenue and Third Avenue. In addition, the pavement width along the two streets as they abut the subject property shall be widened to 27 feet, sidewalk added and the curb and gutter replaced or surety shall be posted for the improvements. Prior to issuance of a Certificate of Occupancy, the street improvements shall be completed;**
- 7. Prior to issuance of a building permit, the applicant shall sign a developmental lot agreement to allow the two lots to function as one property;**

8. The proposed structure(s) shall conform architecturally to the plans and elevations and color palette submitted as part of this Final Residential Development Plan. In particular, decks shall not be allowed on the north side of the structures and windows shall be reduced as proposed along the north side of the structures;
9. The proposed residential structures shall be used as two four unit apartment buildings as shown on the application. Any other use shall require a Major Amendment to the Planned Residential Development;
10. A minimum of 21,800 landscaping points shall be provided. The landscaping plan shall comply with all requirements of the Zoning Ordinance. In addition, all landscaping shall be continually maintained in a live vegetative state and replaced as necessary;
11. A minimum of 18 parking spaces shall be provided. One of the spaces shall be "van" handicap accessible. The parking spaces along the north lot line shall continue to provide a minimum 12 foot separation to the adjacent property and a row of hedges shall be planted between the parking spaces and the north lot line as proposed. In addition, all provisions of the Off-Street Parking Ordinance shall be continually met;
12. All outdoor lighting shall be reflected within the property boundaries so as to not shine onto adjoining properties and rights-of-way and to not be a hazard to the passing motorist or constitute a nuisance of any kind;
13. The snow removal area shall be located as shown on the site plan. In addition, no snow removal area designations shall be allowed within the site triangles;
14. The dumpster shall be located as shown on the site plan and screened on all four sides as proposed;
15. All International Fire Codes shall be met; and,
16. The Planned Commercial Development shall expire if the use is not undertaken and completed within two years of the date of approval by the Planning Commission, or if the use as approved has ceased for a period of two years.

Brenden expressed his support for staff's recommendation.

Hennies moved, LeMay seconded a substitute motion to approve the Planned Residential Development - Initial and Final Development Plan with the following stipulations:

1. Prior to Planning Commission approval, the site plan shall be revised to provide a minimum ten foot wide landscape buffer as per the minimum design standards of the Canyon Lake Overlay District;
2. Prior to Planning Commission approval, the landscaping plan shall be revised to show only that portion of the hedge located within the site triangle to be removed. The balance of the hedge shall remain in place.
3. Prior to Planning Commission approval, the utility plan shall be revised to preclude extending service lines under the existing hedge, or the applicant shall demonstrate that the service lines will be bored

- under the existing hedge or, if the hedge is removed, a mature hedge matching the existing hedge shall be planted in the same location;
4. A building permit shall be obtained prior to any construction and a Certificate of Occupancy shall be obtained prior to occupancy;
 5. Prior to issuance of a building permit, all necessary changes shall be made to the construction plans as identified on the red lined drawings. In addition, the red lined drawings shall be returned to the Development Service Center Division;
 6. Prior to issuance of a building permit, an additional six feet of right-of-way shall be dedicated along Second Avenue and Third Avenue. In addition, the pavement width along the two streets as they abut the subject property shall be widened to 27 feet, sidewalk added and the curb and gutter replaced or surety shall be posted for the improvements. Prior to issuance of a Certificate of Occupancy, the street improvements shall be completed;
 7. Prior to issuance of a building permit, the applicant shall sign a developmental lot agreement to allow the two lots to function as one property;
 8. The proposed structure(s) shall conform architecturally to the plans and elevations and color palette submitted as part of this Final Residential Development Plan. In particular, decks shall not be allowed on the north side of the structures and windows shall be reduced as proposed along the north side of the structures;
 9. The proposed residential structures shall be used as two four unit apartment buildings as shown on the application. Any other use shall require a Major Amendment to the Planned Residential Development;
 10. A minimum of 21,800 landscaping points shall be provided. The landscaping plan shall comply with all requirements of the Zoning Ordinance. In addition, all landscaping shall be continually maintained in a live vegetative state and replaced as necessary;
 11. A minimum of 18 parking spaces shall be provided. One of the spaces shall be "van" handicap accessible. The parking spaces along the north lot line shall continue to provide a minimum 12 foot separation to the adjacent property and a row of hedges shall be planted between the parking spaces and the north lot line as proposed. In addition, all provisions of the Off-Street Parking Ordinance shall be continually met;
 12. All outdoor lighting shall be reflected within the property boundaries so as to not shine onto adjoining properties and rights-of-way and to not be a hazard to the passing motorist or constitute a nuisance of any kind;
 13. The snow removal area shall be located as shown on the site plan. In addition, no snow removal area designations shall be allowed within the site triangles;
 14. The dumpster shall be located as shown on the site plan and screened on all four sides as proposed;
 15. All International Fire Codes shall be met; and,
 16. The Planned Commercial Development shall expire if the use is not undertaken and completed within two years of the date of approval by

the Planning Commission, or if the use as approved has ceased for a period of two years. (2 to 5 with Hennies and LeMay voting yes and Anderson, Brewer, Derby, Fast Wolf and Runde voting no)

Brewer declared that the substitute motion failed. Brewer called for a vote on the original motion to approve the Planned Residential Development - Initial and Final Development Plan with the following stipulations:

- 1. Prior to Planning Commission approval, the site plan shall be revised to provide a minimum five foot wide landscape buffer as per the minimum design standards of the Canyon Lake Overlay District;**
- 2. Prior to Planning Commission approval, the landscaping plan shall be revised to show only that portion of the hedge located within the site triangle to be removed. The balance of the hedge shall remain in place.**
- 3. Prior to Planning Commission approval, the utility plan shall be revised to preclude extending service lines under the existing hedge, or the applicant shall demonstrate that the service lines will be bored under the existing hedge or, if the hedge is removed, a mature hedge matching the existing hedge shall be planted in the same location;**
- 4. A building permit shall be obtained prior to any construction and a Certificate of Occupancy shall be obtained prior to occupancy;**
- 5. Prior to issuance of a building permit, all necessary changes shall be made to the construction plans as identified on the red lined drawings. In addition, the red lined drawings shall be returned to the Development Service Center Division;**
- 6. Prior to issuance of a building permit, an additional six feet of right-of-way shall be dedicated along Second Avenue and Third Avenue. In addition, the pavement width along the two streets as they abut the subject property shall be widened to 27 feet, sidewalk added and the curb and gutter replaced or surety shall be posted for the improvements. Prior to issuance of a Certificate of Occupancy, the street improvements shall be completed;**
- 7. Prior to issuance of a building permit, the applicant shall sign a developmental lot agreement to allow the two lots to function as one property;**
- 8. The proposed structure(s) shall conform architecturally to the plans and elevations and color palette submitted as part of this Final Residential Development Plan. In particular, decks shall not be allowed on the north side of the structures and windows shall be reduced as proposed along the north side of the structures;**
- 9. The proposed residential structures shall be used as two four unit apartment buildings as shown on the application. Any other use shall require a Major Amendment to the Planned Residential Development;**
- 10. A minimum of 21,800 landscaping points shall be provided. The landscaping plan shall comply with all requirements of the Zoning Ordinance. In addition, all landscaping shall be continually maintained in a live vegetative state and replaced as necessary;**
- 11. A minimum of 18 parking spaces shall be provided. One of the spaces shall be "van" handicap accessible. The parking spaces**

- along the north lot line shall continue to provide a minimum 12 foot separation to the adjacent property and a row of hedges shall be planted between the parking spaces and the north lot line as proposed. In addition, all provisions of the Off-Street Parking Ordinance shall be continually met;
12. All outdoor lighting shall be reflected within the property boundaries so as to not shine onto adjoining properties and rights-of-way and to not be a hazard to the passing motorist or constitute a nuisance of any kind;
 13. The snow removal area shall be located as shown on the site plan. In addition, no snow removal area designations shall be allowed within the site triangles;
 14. The dumpster shall be located as shown on the site plan and screened on all four sides as proposed;
 15. All International Fire Codes shall be met; and,
 16. The Planned Commercial Development shall expire if the use is not undertaken and completed within two years of the date of approval by the Planning Commission, or if the use as approved has ceased for a period of two years. The original motion to approve with stipulations carried. (6 to 1 with Anderson, Brewer, Derby, Fast Wolf, Hennies and Runde voting yes and LeMay voting no)

The Rapid City Planning Commission's action on this item is final unless any party appeals that decision to the Rapid City Council. All appeals must be submitted in writing to the Growth Management Department by close of business on the seventh full calendar day following action by the Planning Commission.

LeMay moved, Anderson seconded and unanimously carried to continue the Planning Commission meeting past the 9:00 a.m. deadline. (7 to 0 with Anderson, Brewer, Derby, Fast Wolf, Hennies, LeMay and Runde voting yes and none voting no)

*46. No. 06UR023 - Cottonwoods Subdivision

A request by Jay Van Hunnik for Wellspring, Inc. to consider an application for a **Conditional Use Permit to allow a teenage care center in a Medium Density Residential District** on Lots 2 thru 15 and Lots 18 thru 34 of Block 9 of the Cottonwoods Subdivision, Section 9, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 3402 Cottonwood Street.

Fisher presented the Conditional Use Permit request and the recommendation for approval with stipulations.

Steve Brenden, area resident, expressed the adjacent property owners concerns with the proposed use of the subject property.

Marylou Paulson, area resident expressed objection to the proposed commercial use of the facility on the subject property. Paulson commented on the possible

negative impact with possible increased traffic from the proposed use on the subject property. Paulson requested that the Planning Commission deny the Conditional Use Permit request.

Dr. Kathleen VanHorn, area resident expressed her opposition to the proposed use on the subject property.

Hennies expressed his opinion in support of the proposed use of the facility on the subject property.

LeMay expressed his support for the proposed use of the facility on the subject property.

Hennies moved, Anderson seconded and unanimously carried to approve that a Conditional Use Permit to allow a teenage care center in a Medium Density Residential District with the following stipulations:

- 1. Prior to Planning Commission approval, the site plan shall be revised to show curb and gutter at the approach location being eliminated along Cottonwood Street;**
- 2. Prior to Planning Commission approval, the site plan shall be revised to show a physical barrier between the parking spaces located on the west side of the property along Evergreen Drive and the pedestrian walkway;**
- 3. Prior to Planning Commission approval, the site plan shall be revised to provide a minimum 12 foot separation between the adjacent single family residential lot and any part of the parking area, including the paved access aisle;**
- 4. Prior to Planning Commission approval, the parking plan shall be revised to show one "Van" handicap accessible space. In addition, the parking plan shall be revised eliminating the two parking spaces located in the northeast corner of the property along Dover Street;**
- 5. A building permit shall be obtained prior to any construction and a Certificate of Occupancy shall be obtained prior to occupancy;**
- 6. Prior to issuance of a building permit, all necessary changes shall be made to the plans as identified on the red lined drawings. In addition, the red lined drawings shall be returned to the Development Service Center Division;**
- 7. Prior to issuance of a building permit, the applicant shall sign a developmental lot agreement;**
- 8. All signage shall conform to the design, color and location as shown in the sign package submitted as a part of the Planned Residential Development. As proposed by the applicant, no lighting shall be allowed for the signs. A sign permit shall also be obtained for each individual sign;**
- 9. A minimum of 133,172 landscaping points shall be provided. The landscaping plan shall comply with all requirements of the Zoning Ordinance. In particular, the row of large Elm trees shall remain along the south lot line to serve as a buffer between the subject property and the adjacent single family residential lot. In addition, a minimum**

- of two planter islands shall be provided as proposed. All landscaping shall be continually maintained in a live vegetative state and replaced as necessary;
10. A minimum of 100 parking spaces shall be provided. Four of the spaces shall be handicap accessible with one of the handicap spaces being "Van" accessible. In addition, all provisions of the Off-Street Parking Ordinance shall be continually met;
 11. All outdoor lighting shall be reflected within the property boundaries so as to not shine onto adjoining properties and rights-of-way and to not be a hazard to the passing motorist or constitute a nuisance of any kind;
 12. The dumpster shall be located as shown on the site plan and screened on all four sides as proposed;
 13. The air handling equipment shall be located within the existing building as proposed. Any external placement of air handling equipment shall require a Major Amendment to the Conditional Use Permit;
 14. All International Fire Codes shall be met. In addition, the building shall be fire sprinklered as per the International Fire Code and a building permit shall be obtained for the fire sprinkler system prior to installation;
 15. The proposed structure shall be used as a teenage care center with a maximum of 75 youth and 25 employees on the property at any one time. In addition, the facility shall be operated in compliance with the statements submitted as a part of this application. No overnight stays shall be allowed. In addition, the facility may be operational from 8:00 a.m. to 10:00 p.m. Any other use or change in operation shall require a Major Amendment to the Conditional User Permit; and,
 16. The Conditional Use Permit shall expire if the use is not undertaken and completed within two years of the date of approval by the Planning Commission, or if the use as approved has ceased for a period of two years. (7 to 0 with Anderson, Brewer, Derby, Fast Wolf, Hennies, LeMay and Runde voting yes and none voting no)

The Rapid City Planning Commission's action on this item is final unless any party appeals that decision to the Rapid City Council. All appeals must be submitted in writing to the Growth Management Department by close of business on the seventh full calendar day following action by the Planning Commission.

Fast Wolf left the meeting at this time.

47. No. 06SV076 - Grays Subdivision
A request by Joel Brannan to consider an application for a **Variance to the Subdivision Regulations to waive the requirement to pave Jake Road to City Street Design Standards as per Chapter 16.16 of the Rapid City Municipal Code** on Lots 1 and 2 of Tract L of Gray's Subdivision, Section 32, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 5141 and 5160 Jake Road.

Fisher presented the Variance request and staff recommendation for denial. Discussion followed.

Joel Brannan, applicant requested that the Planning Commission approve the Variance request. Brannan identified the proposed access points and the alternate type of paving surface he is proposing to install. Discussion followed.

In response to Brewer's question, Elkins stated that Planning Commission could approve the Variance request with a stipulation that the applicant sign a waiver of right to protest an assessment for the portion of roadway along the section line highway. Discussion followed.

Anderson moved, Runde Seconded and unanimously carried to recommend that the Variance to the Subdivision Regulations to waive the requirement to pave allowing the applicant to install a surface material other than that required by City Standards as per Chapter 16.16 of the Rapid City Municipal Code be approved with the following stipulation:

- 1. That the portion of the section line highway be subject to a Waiver of Right to Protest any future assessments. (6 to 0 with Anderson, Brewer, Derby, Hennies, LeMay and Runde voting yes and none voting no)**

*48. No. 06UR025 - Feigels Subdivision

A request by Jim Berger to consider an application for a **Conditional Use Permit to allow an on-sale liquor establishment** on Tract A and the south half of the vacated alley adjacent to Tract A of Block 2 of Feigels Subdivision, Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1012 East North Street.

Elkins presented staff recommendation to approve that the Conditional Use Permit request with stipulations.

Steve Colgan, property owner requested that the stipulation requiring that the structure be sprinklered be dropped. Elkins reviewed the stipulation noting that the stipulation as proposed allows the applicant to seek an exception to the Fire Code requirements. Elkins explained that the Planning Commission does not have the authority to waive the requirement. Discussion followed.

Hennies moved, LeMay seconded and unanimously carried to approve the Conditional Use Permit to allow an on-sale liquor establishment with the following stipulations:

- 1. If occupancy is below 50 seating capacity, the seating shall be fixed and bolted to the floor as proposed by the applicant. If the occupancy exceeds 50 seating capacity, the structure shall be fully fire sprinklered and fire alarmed/detected as per the 2003 International Fire Code or an Exception obtained;**
- 2. All applicable provisions of the 2003 International Fire Codes shall be continually met;**

3. The proposed structure shall conform architecturally to the plans and elevations submitted. Any expansion to the use will require a Major Amendment to the Conditional Use Permit;
4. Prior to Planning Commission approval, surety shall be posted for the balance of the landscaping requirements not completed. The Landscaping Regulations of the Rapid City Municipal Code shall be continually met and all required landscaping shall be maintained in a live vegetative state;
5. The on-sale liquor establishment shall be operated only in conjunction with a full service restaurant; and,
6. The Conditional Use Permit shall expire if the use is not undertaken and completed within two years of the date of approval by the Planning Commission, or if the use as approved has ceased for a period of two years. (6 to 0 with Anderson, Brewer, Derby, Hennies, LeMay and Runde voting yes and none voting no)

The Rapid City Planning Commission's action on this item is final unless any party appeals that decision to the Rapid City Council. All appeals must be submitted in writing to the Growth Management Department by close of business on the seventh full calendar day following action by the Planning Commission.

There being no further business, LeMay moved, Hennies seconded and unanimously carried to adjourn the meeting at 9:40 a.m. (6 to 0 with Anderson, Brewer, Derby, Hennies, LeMay and Runde voting yes and none voting no)