

MINUTES
PENNINGTON COUNTY PLANNING COMMISSION
February 24, 2014 @ 9:00 a.m.

County Commissioners' Meeting Room - Pennington County Courthouse

MEMBERS PRESENT: Sig Zvejnieks, Karen Hall, Lori Litzen, Bill McCollam, Barbara Landers, and Don Holloway.

STAFF PRESENT: Dan Jennissen, Lysann Zeller, Jeri Ervin, and Patrick Grode (SAO).

ROLL CALL

1. APPROVAL OF THE FEBRUARY 10, 2014, MINUTES
Moved by McCollam and seconded by Litzen to approve the February 10, 2014, Planning Commission minutes. Vote: unanimous (6 to 0).

2. APPROVAL OF THE AGENDA
Moved by Hall and seconded by McCollam to approve the February 24, 2014, Planning Commission Agenda. Vote: unanimous (6 to 0).

CONSENT CALENDAR

The following items have been placed on the Consent Calendar for action to be taken on all items in accordance with staff's recommendation by a single vote. Any item may be removed from the Consent Calendar, by any Planning Commissioner, staff member, or audience member for separate consideration. The findings of this Planning Commission are recommendations to the Pennington County Board of Commissioners who will make the final decision.

END OF CONSENT CALENDAR

3. MINOR PLAT / PL 14-01 AND SUBDIVISION REGULATIONS VARIANCE / SV 14-01: Shawn and Jodi Burke. To create Tract 1 of Burke Subdivision and to waive platting requirements in accordance with Sections 400.3 and 700.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lot 1 of Outlot B and Vacated 5th Street, Block 2, Farmingdale, and a portion of Tract L of SE1/4NW1/4 and SW1/4NE1/4 less right-of-way, all in Section 14, T1S, R10E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Tract 1 of Burke Subdivision, Section 14, T1S, R10E, BHM, Pennington County, South Dakota.

Zeller reviewed the Staff Report indicating the applicants have submitted a Minor Plat request to create Tract 1 of Burke Subdivision by combining portions of two existing parcels and vacating an existing alleyway. Specifically, Tract 1 would be created by

combining all of existing Lot 1 of Outlot B and Vacated 5th Street, Block 2 of Farmingdale and the vacated alleyway in Block 2 of Farmingdale with a portion of Tract L of SE¹/₄NW¹/₄ and SW¹/₄NE¹/₄ less right-of-way. Proposed Tract 1 is to measure 8.518 acres, while the remainder of Tract L (not being platted) would measure 41.8 acres. In addition, the applicants are also requesting a Subdivision Regulations Variance to waive the following platting requirements:

- a. The scale of the plat to be no greater than one (1) inch equals 100 feet;
- b. Topography information to be provided at a five (5) foot contour interval;
- c. Dedication of major drainage easements where the proposed lot is traversed by a watercourse, drainage way, channel or stream; and,
- d. Road improvements to General Agriculture District Standards.

Staff recommended approval of Minor Plat 14-01 and Subdivision Regulations Variance 14-01 with the following three (3) conditions:

1. That prior to recording this plat at the Register of Deeds, proposed Tract 1 either be rezoned or a Lot Size Variance be obtained to allow the 8.518 acre lot to remain zoned General Agriculture District;
2. That the lot address be posted so it is clearly visible at all times in accordance with Pennington County's Ordinance #20; and,
3. That the wording in the heading indicating that Tract 1 of Burke Subdivision is located in the SE¹/₄NW¹/₄ be removed prior to recording this plat at the Register of Deeds.

Chairman Zvejnieks wanted to know why there is the requirement to show the floodplain, but staff is recommending the requirement to dedicate drainage easements be waived.

Zeller explained that the area consists mainly of large agricultural land tracts and the County Highway Department, which handles drainage projects throughout the County, also did not see a need to include that requirement for this plat.

Chairman Zvejnieks responded and stated that, in this situation, he could see not requiring an easement, but did not want to set a precedent by noting that anytime there is floodplain showing, a drainage easement is not required.

Jennissen further stated that the area being discussed is an unstudied floodplain area. FEMA considers it designated, but not a detailed area as far as the floodplain is concerned. If the area in question eventually becomes a studied area, this could reduce or enlarge the floodplain.

Commissioner Litzen clarified that this would be determined if there is additional development.

Jennissen further stated that, if the applicant wanted to build close to the floodplain or in the floodplain, they would need to do a study to either show that the structure is flood proof or that the area is out of the floodplain.

Discussion followed.

Moved by Hall and seconded by Litzen to approve of Minor Plat 14-01 and Subdivision Regulations Variance 14-01 with the following three (3) conditions:

- 1. That prior to recording this plat at the Register of Deeds, proposed Tract 1 either be rezoned or a Lot Size Variance be obtained to allow the 8.518 acre lot to remain zoned General Agriculture District;**
- 2. That the lot address be posted so it is clearly visible at all times in accordance with Pennington County's Ordinance #20; and,**
- 3. That the wording in the heading indicating that Tract 1 of Burke Subdivision is located in the SE¹/₄NW¹/₄ be removed prior to recording this plat at the Register of Deeds.**

All voting aye, the Motion carried 6 to 0.

4. MINOR PLAT / PL 14-02: Lariat Log Cabin; Doug and Carol Willoughby. To create Lot 3R of Double Diamond Ranch Subdivision in accordance with Sections 400.3 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lot 3 and Lot 4, Double Diamond Ranch Subdivision, Section 22, T1S, R5E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot 3R, Double Diamond Ranch Subdivision, Section 22, T1S, R5E, BHM, Pennington County, South Dakota.

Jennissen reviewed the Staff Report indicating the applicants have applied for a Minor Plat to combine two lots in order to create Lot 3R of Double Diamond Ranch Subdivision.

Jennissen further explained that the applicants were interested in purchasing the lot adjacent to their own (Lot 4). When identifying the existing lot lines of Lot 4, it was discovered that the contractor had actually built their residence directly over the shared lot line between Lot 3 and Lot 4. At the time of this discovery, the applicants did not yet own Lot 4, but did proceed with the purchase of it. Building the residence over the property line created a Violation and, by combining the two lots, this will remove the Violation from the property and this will also be a decrease in density to the subdivision.

Staff recommended approval of Minor Plat 14-02 with the following four (4) conditions:

1. That prior to filing of the plat with Register of Deeds, the Certificate of Planning Director be removed or crossed off;
2. That prior to filing of the plat with Register of Deeds, an Operating Permit, for the existing on-site wastewater treatment system, be obtained;
3. That prior to filing of the plat with the Register of Deeds, the penalty fees either be paid, or waived by the County Board; and,
4. That the property address be clearly and continuously posted per Pennington County Ordinance # 20.

Commissioner Hall questioned how this could happen; that the structure was built over the lot line.

Jennissen stated there is a letter from the Agent / Realtor included with the Staff Report reviewing the timeline of events.

Discussion followed.

Moved by McCollam and seconded by Hall to approve of Minor Plat 14-02 with the following four (4) conditions:

- 1. That prior to filing of the plat with Register of Deeds, the Certificate of Planning Director be removed or crossed off;**
- 2. That prior to filing of the plat with Register of Deeds, an Operating Permit, for the existing on-site wastewater treatment system, be obtained;**
- 3. That prior to filing of the plat with the Register of Deeds, the penalty fees either be paid, or waived by the County Board; and,**
- 4. That the property address be clearly and continuously posted per Pennington County Ordinance # 20.**

All voting aye, the Motion carried 6 to 0.

5. CONDITIONAL USE PERMIT / CU 14-03: Home Quest, Inc.; Mike Harmon - Agent. To allow for storage units to be located on the subject property in a Highway Service District in accordance with Sections 210 and 510 of the Pennington County Zoning Ordinance.

Lot 1 of Tract A of Lot B in the NE1/4NW1/4, Section 17, T2N, R7E, BHM, Pennington County, South Dakota.

Jennissen reviewed the Staff Report indicating the applicant has applied for a Conditional Use Permit to allow for five storage units on the subject property ranging in size from 20 feet by 40 feet to 30 feet by 140 feet.

Jennissen further explained that the property is located at the intersection of Sturgis Road and Merritt Road and access will be taken off of Merritt Road. Merritt Road is a paved road and meets the current standard outlined in Table 1 of the Subdivision Regulations. Sturgis Road is considered a Major Arterial and also meets the minimum standard outlined in Table 1 of the Subdivision Regulations. Mr. Harmon also owns the adjacent lot to the west and has indicated that the existing on-site manager of the rental units will also manage the proposed storage units.

Jennissen also noted that the site plan submitted by the applicant was drawn with the understanding that he maintains a 30 foot setback from both the south and west property lines. It was later determined that, because the lots to the south and west are zoned Highway Service District and General Commercial District, a 10 foot setback is allowed in lieu of a 30 foot setback from a residential district. A conversation with Mr. Harmon indicated that he will not change the number of units, based upon this new information; however, he will relocate the buildings so that more space is provided between the structures.

Staff recommended approval of Conditional Use Permit 14-03 with the following nine (9) conditions:

1. That a Building Permit be obtained for any structure exceeding 144 square feet or located on a permanent foundation which requires a site plan to be reviewed and approved by the Planning Director;
2. That the applicant ensures that all natural drainage ways must be maintained and are not blocked;
3. That any work encompassing over one (1) acre will require the applicant to obtain an approved Storm Water Construction Permit from the South Dakota Department of Environment and Natural Resources;
4. That the address and a sign be posted indicating after hours contact information and with owner phone number, which must be clearly visible at the entrance of the lot;
5. That the applicant improve the existing approach off of Merritt Road to Ordinance #14 Standards and also obtains a new Approach Permit from the County Highway Department prior to the issuance of any Building Permits for the storage units;
6. That all lighting located on the outside of the storage units be directed towards the ground;

7. That the applicant be allowed to construct up to five (5) separate storage structures on the property as shown on exhibit A. Minor changes may be allowed per the Planning Director, as long as they do not change the intent of the lot or use;
8. That this Conditional Use Permit is not valid until the applicant signs the Statement of Understanding, which is available at the Planning Office; and,
9. That this Conditional Use Permit be reviewed in one (1) year or on a complaint basis to verify that all conditions of approval are being met.

Commissioner Hall asked if the residents in the rental cabins were notified of the proposed application.

Jennissen stated that the applicant is also the property owner of the cabins and duplex on the adjacent property and is at the meeting to address this.

Mr. Mike Harmon, applicant, appeared and stated that he did speak with all the renters and they did not have a problem with the proposed storage units.

Chairman Zvejnieks questioned if renters have a say in the proposed use, when the applicant is the owner of the property.

Jennissen responded and said that the renters could appear before the Planning Commission and voice any concerns they may have.

Jennissen further noted that the applicant must maintain a 10 foot setback, so he may rearrange the layout of the five storage units on the subject property.

Moved by Landers and seconded by McCollam to approve of Conditional Use Permit 14-03 with the following nine (9) conditions:

- 1. That a Building Permit be obtained for any structure exceeding 144 square feet or located on a permanent foundation which requires a site plan to be reviewed and approved by the Planning Director;**
- 2. That the applicant ensures that all natural drainage ways must be maintained and are not blocked;**
- 3. That any work encompassing over one (1) acre will require the applicant to obtain an approved Storm Water Construction Permit from the South Dakota Department of Environment and Natural Resources;**
- 4. That the address and a sign be posted indicating after hours contact information and with owner phone number, which must be clearly visible at the entrance of the lot;**

5. **That the applicant improve the existing approach off of Merritt Road to Ordinance #14 Standards and also obtains a new Approach Permit from the County Highway Department prior to the issuance of any Building Permits for the storage units;**
6. **That all lighting located on the outside of the storage units be directed towards the ground;**
7. **That the applicant be allowed to construct up to five (5) separate storage structures on the property as shown on exhibit A. Minor changes may be allowed per the Planning Director, as long as they do not change the intent of the lot or use;**
8. **That this Conditional Use Permit is not valid until the applicant signs the Statement of Understanding, which is available at the Planning Office; and,**
9. **That this Conditional Use Permit be reviewed in one (1) year or on a complaint basis to verify that all conditions of approval are being met.**

All voting aye, the Motion carried 6 to 0.

6. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commission's recommendations from the February 10, 2014, Planning Commission meeting.

7. ITEMS FROM THE PUBLIC

There were no items from the public.

8. ITEMS FROM THE STAFF

- A. Vacation Home Rental Ordinance. Jennissen spoke of Section 319-B (Zoning Requirements) and Section 319-C-5 (Permit Requirements) in the VH Rental Ordinance where VH Rentals are permitted with approval of a Conditional Use Permit in a Suburban Residential Zoning District, if the applicant has a permit from the State of South Dakota to operate a VHR at the date of passage of this Ordinance Amendment, or if the applicant has applied for such permit at the date of passage of this Ordinance Amendment, and also that the Conditional Use Permit (CUP) shall be revoked upon sale or transfer of ownership of the property.

Jennissen commented that under Section 319-C-5, the CUP automatically is revoked when the property is sold, so VH Rentals in Suburban Residential District could not reapply. He further stated that he didn't believe this was the intent of the Ordinance and would like to discuss it to possibly submit an Ordinance Amendment to change the language.

Chairman Zvejnieks noted that the Planning Commission did discuss revisiting this portion of the Ordinance in a year, once the Ordinance had passed, to discuss VH Rentals in Suburban Residential Zoning Districts.

Zeller further explained that a potential buyer is looking at purchasing a property that has been used as a Vacation Home Rental and the current owner does have the proper permits through the State, but not a Conditional Use Permit with Pennington County. The potential buyer would like to purchase the property, since the current owner does have the permits, but the permits are not in the potential buyer's name. This poses a problem under the current Ordinance.

Discussion followed.

Moved by Litzen and seconded by Hall to have the Planning Staff research and review options for VH Rentals in Suburban Residential Zoning Districts and bring those items back to the Planning Commission at their March 24th meeting for discussion purposes and to also look at whether or not the Conditional Use Permit should be revoked upon sale of the property or transfer of ownership.

All voting aye, the Motion carried 6 to 0.

9. ITEMS FROM THE MEMBERSHIP

Chairman Zvejnieks recommended the list of items the Planning Commission would like to move forward with be placed on an upcoming Planning Commission Agenda for discussion and possible Ordinance Amendments, since the proposed consultants, Clarion Associates, may not even discuss or look at the items the Planning Commission would like to address.

10. DISCUSSION ITEMS

There were no discussion items.

11. ADJOURNMENT

Moved by Hall and seconded by McCollam to adjourn.

All voting aye, the Motion carried 6 to 0.

The meeting adjourned at **9:45 a.m.**

Chairperson, Sig Zvejnieks