

**MINUTES
PENNINGTON COUNTY PLANNING COMMISSION**

March 24, 2014 @ 9:00 a.m.

County Commissioners' Meeting Room - Pennington County Courthouse

MEMBERS PRESENT: Sig Zvejnieks, Jim Coleman, Karen Hall, Lori Litzen, Bill McCollam, and Nancy Trautman.

STAFF PRESENT: Lysann Zeller, PJ Conover, Kelsey Rausch, Jeri Ervin, and Patrick Grode (SAO).

ROLL CALL

1. APPROVAL OF THE MARCH 10, 2014, MINUTES
Chairman Zvejnieks spoke of the minutes regarding Item #9 (Minor Plat 14-03 / John Donahue); no recommended changes were made.

Moved by Coleman and seconded by Litzen to approve the March 10, 2014, Planning Commission minutes. Vote: unanimous (6 to 0).

2. APPROVAL OF THE AGENDA
Moved by Litzen and seconded by Hall to approve the March 24, 2014, Planning Commission Agenda, with the removal of Item #8. 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.

3. **CONDITIONAL USE PERMIT REVIEW / CU 92-42:** Sunnyside Mobile Home Court. To review a mobile home park in a Suburban Residential District in accordance with Sections 208-C-2 and 510 of the Pennington County Zoning Ordinance.

The SE1/4NE1/4, Section 17, T2N, R7E, BHM, including that portion designated as a private lane lying in the SE1/4NE1/4SE1/4, Section 17, T2N, R7E, BHM, as shown on the plats filed in Plat Book 9, Page 161 and Plat Book 12, Page 274, excepting there from Lot A of the SE1/4NE1/4 NE1/4SE1/4, Section 17, T2N, R7E, BHM, as shown on the plat filed in Plat Book 9, Page 161 and EXCEPTING there from Lots C and D of King Subdivision, as shown on the plat filed in Plat Book 12, Page 274.

To continue the review of Conditional Use Permit / CU 92-42 to the April 28, 2014, Planning Commission meeting.

Vote: unanimous (6 to 0).

4. **CONDITIONAL USE PERMIT REVIEW / CU 12-03:** Keith and Mary Anne Wheeler. To review a single-wide mobile home being used as a single-family residence in a Suburban Residential District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance.

The N1/2 of Lot 9, Block 8, Eastern Acres Subdivision, Section 11, T1N, R8E, BHM, Pennington County, South Dakota.

To approve of the extension of Conditional Use Permit / CU 12-03 with the following four (4) conditions:

1. **That the property remains free of debris and junk vehicles;**
2. **That the lot address continues to be clearly posted so it is visible from Lunar Drive at all times in accordance with Pennington County's Ordinance #20;**
3. **That the mobile home on the property continue to have a peaked non-reflective type roof and wood or simulated wood-type siding that is continually maintained and be provided with skirting from the bottom of the walls to the ground; and,**
4. **That this Conditional Use Permit be reviewed in two (2) years or on a complaint basis to verify that all conditions of approval are being met.**

Vote: unanimous (6 to 0).

5. **MINING PERMIT / MP 14-03:** Pennington County Highway Department. To excavate gravel for road resurfacing in the area in accordance with Section 507 of the Pennington County Zoning Ordinance.

SW1/4 of Section 27 and the SE1/4 of Section 28, T1S, R3E, BHM, Pennington County, South Dakota.

To approve of Mining Permit / MP 14-03 with the following eleven (11) conditions:

1. **That the conditions of the approval of the South Dakota Department of Environment and Natural Resources General Permit for Storm Water Discharges Associated with Industrial Activities be continually met;**
2. **That the applicant continually maintains and adheres to the Storm Water Pollution Prevention Plan during the Mining Activity;**
3. **That the conditions of approval of the South Dakota Department of Environment and Natural Resources Mining & Minerals Permit be continually met;**
4. **That the applicant submit a copy of the annual Mine License Report and a copy of the Mine License to the Planning Director when it is renewed;**

5. That the applicant adhere to the Contract for the Sale of Mineral Materials from the Mystic and Northern Hills Ranger District (Contract Number MM-FY09-MY010) and Exhibit B – Terms and Conditions to Plan of Operations Copper Mountain, Nichols Creek & Benchmark Quarries;
6. That any natural drainage ways and paths be continually maintained and culverts added as necessary, in accordance with Pennington County Ordinance #14;
7. That erosion control measures be implemented around the stockpiles to prevent sediment from leaving the site and, in addition, any disturbed areas must have acceptable erosion control measures to prevent surface erosion and sediment leaving the site or entering drainage ways;
8. That site inspections be done at least weekly during the period of construction or monthly, if no construction activity is occurring on the site (temporary stabilization is required if activity on the site is dormant for more than 21 days), and within 24 hours following a storm event of at least 0.5” or a snowmelt event that causes surface erosion;
9. That an address be posted in large numbers at the entrance to the pit in accordance with Ordinance #20;
10. That the site shall be revegetated as required by Exhibit B – Terms and Conditions to Plan of Operation Cooper Mountain, Nichols Creek & Benchmark Quarries, Section C; and,
11. That this Mining Permit be reviewed in one (1) year or upon a complaint basis.

Vote: unanimous (6 to 0).

6. **MINING PERMIT / MP 14-04:** Pennington County Highway Department. To excavate and extract gravel for road resurfacing in the area in accordance with Section 507 of the Pennington County Zoning Ordinance.

E1/2SE1/4 of Section 7 and the W1/2SW1/4; SE1/4SW1/4 of Section 8, T2N, R15E, BHM, Pennington County, South Dakota.

To approve of Mining Permit / MP 14-04 with the following ten (10) conditions:

1. That the conditions of the approval of the South Dakota Department of Environment and Natural Resources General Permit for Storm Water Discharges Associated with Industrial Activities be continually met;
2. That the applicant continually maintains and adheres to the Storm Water Pollution Prevention Plan during the Mining Activity;

3. That the conditions of approval of the South Dakota Department of Environment and Natural Resources Mining & Minerals Permits be continually met;
4. That the applicant submit a copy of the annual Mine License Report and a copy of the Mine License to the Planning Director when it is renewed;
5. That any natural drainage ways and paths be continually maintained and culverts added as necessary, in accordance with Pennington County Ordinance #14;
6. That erosion control measures be implemented around the stockpiles to prevent sediment from leaving the site and, in addition, any disturbed areas must have acceptable erosion control measures to prevent surface erosion and sediment leaving the site or entering drainage ways;
7. That site inspections be done at least weekly during the period of construction or monthly, if no construction activity is occurring on the site (temporary stabilization is required if activity on the site is dormant for more than 21 days), and within 24 hours following a storm event of at least 0.5" or a snowmelt event that causes surface erosion;
8. That an address be posted in large numbers at the entrance to the pit in accordance with Ordinance #20;
9. That the site shall be revegetated as required in Section 507-A(5)(c); and,
10. That this Mining Permit be reviewed in one (1) year or upon a complaint basis.

Vote: unanimous (6 to 0).

7. **MINOR PLAT / PL 14-05:** Larry Shorb, Clifford and Mary Shorb; John Preston – Agent. To create Lot 1 of John Deere Subdivision in accordance with Section 400.3 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: A portion of Tract N and the NE1/4SW1/4 located in the E1/2SW1/4 of Section 18, T2S, R8E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot 1, John Deere Subdivision, Section 18, T2S, R8E, BHM, and Pennington County, South Dakota.

To recommend approval of Minor Plat / PL 14-05 with the following seven (7) conditions:

1. That prior to County Board approval of this Minor Plat, a Lot Size Variance for proposed Lot 1 of John Deere Subdivision be obtained;

2. That the lot address be posted so it is clearly visible at all times in accordance with Pennington County's Ordinance #20;
3. That prior to County Board approval, the 1,200 square foot feeder barn, currently located on the parcel owned by Clifford and Mary Shorb, which will be located within the proposed Lot 1 of John Deere Subdivision, either have a Building Permit obtained with a Setback Variance or it be removed from the property prior to this plat being recorded with the Register of Deeds;
4. That prior to recording this plat at the Register of Deeds, the following changes be made to the Minor Plat: Under Certificate of Ownership the name Mary Shob be corrected to read Mary Shorb, plat heading be changed from Shorb Subdivision to Lot 1 of John Deere Subdivision; and Under Certificate of Surveyor, the Surveyor's name follow the word, "I" in the Certification;
5. That prior to County Board approval of this Minor Plat, an Operating Permit be obtained, for the on-site wastewater treatment system currently located on proposed Lot 1 of John Deere Subdivision;
6. That prior to County Board approval of this Minor Plat, the following be added to the Plat or a Subdivision Regulations Variance be obtained: An 8' wide utility and minor drainage easement along all interior lot lines; and Major drainage easements for any existing drainage easements be indicated; and,
7. The approval of this Minor Plat does not constitute approval of any further applications to be submitted for the above-described properties.

Vote: unanimous (6 to 0).

9. **VACATION OF PLAT / VP 14-01:** Robert Crisman and Faith Lewis. To vacate Tracts 5, 6, and 7 of Bear Mountain Ranch Subdivision.

EXISTING LEGAL: A portion of Tracts 5, 6, and 7 of Bear Mountain Ranch Subdivision, Section 24, T2S, R3E, and Section 19, T2S, R4E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: The unplatted portion of SE $\frac{1}{4}$ NE $\frac{1}{4}$, less Tracts 2, 3, 4, 8A, and 8B of Bear Mountain Ranch Subdivision and less SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 24, T2S, R3E, BHM, Pennington County, South Dakota; and, The unplatted portion of Government Lot 2, less Tracts 1, 8B and 8C of Bear Mountain Ranch Subdivision and less Lots 6 and 10, Lost Acres Addition #1, Section 19, T2S, R4E, BHM, Pennington County, South Dakota.

To recommend approval of Vacation of Plat / VP 14-01 with one (1) condition:

1. **That the Vacation of Plat Resolution be filed and recorded at the Register of Deeds Office.**

Vote: unanimous (6 to 0).

10. **CONDITIONAL USE PERMIT AMENDMENT / CU 14-04:** Dan and Nancy Evangelisto. To amend the existing Conditional Use Permit to include Lot 12 to allow for a Recreational Resort to include a Bed and Breakfast, up to 10 rental units and special events to include: weddings, wine tasting, rehearsal dinners, and family reunions in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

Lots 3, 4, 10, 11 and 12, Custer Trails Subdivision #1, Section 22, T1N, R5E, BHM, Pennington County, South Dakota.

To continue Conditional Use Permit Amendment / CU 14-04 to the April 14, 2014, Planning Commission meeting.

Vote: unanimous (6 to 0).

END OF CONSENT CALENDAR

8. **TELECOMMUNICATIONS FACILITY PERMIT / TC 14-01:** Cellular Inc. / Network Corp. d/b/a Verizon Wireless; John Rowe - Agent. To allow a 190 foot stealth monopine pole and equipment shelter in a General Agriculture District in accordance with Sections 205 and 316 of the Pennington County Zoning Ordinance.

That Part of Lot A in SW1/4SW1/4 lying south of Highway 44, Section 12, T1N, R6E, BHM, Pennington County South Dakota.

This item was removed from the Consent Calendar, at the request from a member of the public, to discuss the proposed application.

Conover reviewed the Staff Report indicating the applicant has applied for a Telecommunications Facility Permit to allow a 190 foot stealth monopine pole and equipment shelter on the subject property. Because of an advertising error by the Rapid City Journal, the item needs to be continued to the next scheduled Planning Commission meeting in order for the application to be properly advertised.

Staff recommended to continue Telecommunications Facility Permit 14-01 to the April 14, 2014, Planning Commission meeting.

Ms. Alys Ratigan, landowner in the area, appeared and spoke in opposition to the proposed application. She expressed concern that the cell tower will be seen from their front windows, lower their property values, and affect their quality of life.

Ms. Heidi Crawford, landowner in the area, also appeared and spoke in opposition to the proposed application. Ms. Crawford spoke of the beauty in the area and scenic views that would be disrupted by the tower. She also feels their property values will be lowered having the cell tower located in its proposed location. She asked that it be set back farther away from W. Highway 44 to blend into the area and noted that there is more traffic in the summertime and feels the height of the tower will be a distraction to tourists in its proposed location.

Commissioner Litzen asked Ms. Ratigan and Ms. Crawford if they preferred the proposed monopine cell tower not look like a pine tree, but just a tower.

Ms. Ratigan and Ms. Crawford both stated that, either way, it's going to stick out because of the location and height.

Commissioner Litzen also asked if they feel there is a more appropriate place for the cell tower that Verizon could research further.

Ms. Crawford indicated that W. Highway 44 has areas that are undeveloped, which could be more appropriate.

Commissioner Hall spoke of another stealth monopine pole located a few miles further on W. Highway 44 which does blend into the area and is harder to see, since it is located in with the trees.

Commissioner Coleman questioned if the property owners in the area would object if Verizon built a large warehouse on the property.

Ms. Ratigan stated it would not be attractive and noted that the subject property is not well kept.

Commissioners Coleman and Litzen wanted to know what type of uses are allowed in a General Agriculture Zoning District.

Zeller reviewed the allowed uses.

Ms. Crawford commented that there is already a quonset on the subject property with a lot of junk that needs to be cleaned up.

Commissioner Trautman questioned the cell phone coverage in the area.

Ms. Ratigan and Ms. Crawford both stated they have no problems with coverage.

Discussion followed.

Moved by Hall and seconded by Coleman to continue Telecommunications Facility Permit / TC 14-01 to the April 14, 2014, Planning Commission meeting.

All voting aye, the Motion carried 6 to 0.

11. SUBDIVISION REGULATIONS VARIANCE / SV 14-02: John and Jenny Boland. To waive platting requirements in accordance with Section 700.1 of the Pennington County Zoning Ordinance.

EXISTING LEGAL: Government Lots 10-11, Section 31, T1S, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot 1 of Boland Subdivision and unplatted balance of Government Lot 11, Section 31, T1S, R6E, BHM, Pennington County, South Dakota.

Zeller reviewed the Staff Report indicating the applicant has submitted a Subdivision Regulations Variance request to waive engineered road construction plans and road improvements for the 66-foot wide access easement and Section Line ROW; submission of percolation tests and soil profile information; and, topography at a five-foot contour interval. This Subdivision Regulations Variance is in conjunction with a proposed plat to create Lot 1 of Boland Subdivision. On January 21, 2014, the Board of Commissioners approved Layout Plat 13-29 to create Lot 1 of Boland Subdivision with ten (10) conditions.

Zeller explained that Mr. Boland obtained the parcel in 1990 from the Bureau of Land Management in an exchange for land near Moon. He obtained Building Permits 07-302, 07-303, 07-615 and 08-183. Building Permit 07-302 is for a studio, which is now a second residence on the property.

In 2011, an Ordinance Amendment was adopted which allows one Guest House per parcel, in addition to the main residence, with approval of a Conditional Use Permit. Prior to the adoption of the Guest House Ordinance, studios were allowed as long as they were not to be used as a 2nd living quarters. Mr. Boland has indicated that his studio/Guest House has a stove and complete living quarters, and he indicated that he thought he would be grandfathered when the Guest House Ordinance was adopted. Being the studio is now a Guest House, the property is now in violation and in order to bring the property into compliance, a separate lot needs to be created for the 2nd home on the property. Mr. Boland does not have the option of applying for a CUP as the Guest House is larger than 1,000 square feet. A Guest House cannot be larger than 1,000 square feet. Creating a separate lot for the Guest House would bring the property into compliance.

Zeller stated the property is accessed from a 66-foot access easement, recently created in 2007, and the road is a 16- to 18-foot-wide graveled road. The Pennington County Subdivision Regulations require that a local road be a minimum of 24-feet in width and a minimum of four inches of graveled surface. The road must be improved to this standard or a Subdivision Regulations Variance be approved waiving this requirement. This Subdivision Regulations Variance is requesting to waive this requirement. The plat is creating an additional lot. The road currently provides access to six lots, two of those lots have residences which use this access easement, one of those lots have two residences (this lot), which brings the total of three homes that currently use this easement. The remaining lots in the area are mining claims that were created as early the late 1800s and are currently vacant of any structures. County Board typically grants variances when density is not increasing. In this case, the proposed plat is increasing density by one lot and staff will be recommending that the road be improved to Local Road Standards,

which includes a 24-foot-wide graveled road with inslopes and backslopes. Also, engineered road construction plans must be submitted for those improvements. The applicant currently has two lots and has the option of reconfiguring those lot lines, which would not increase the density of the area.

Staff recommended approval of a portion of Subdivision Regulations Variance #14-02 to waive percolation tests and soil profile information; topography at five foot interval; and, Section Line Highway improvements.

Staff recommended denial of the portion of the request to waive submittal of engineered road construction plans and road improvements to the 66-foot wide access easement.

Chairman Zvejnieks spoke of the required engineered road construction plans and road improvements and wanted to know at what point will these items will be required.

Zeller noted the Chairman's concern and stated staff is recommending that improvements be required now since the applicant is platting.

Commissioner McCollam commented that it appears to be a private entrance and wanted to know the condition of the road that the lot is accessed off of and whether it is to County Standards.

Zeller said the road to the proposed lot is accessed off of Highway 16, which is to County Standards, but the road located in the access easement does not meet County Standards.

Commissioner Litzen asked if the road can be used to access other properties and also clarified that the other properties are currently not occupied.

Mr. Boland said this is correct and explained that there are three residences which take access from that road and there is a Road Association. He further stated the road was built by the Forest Service, so that they could have access to their property in order to log it. The road built by the Forest Service is 16-foot-wide with six inches of gravel.

Commissioner Litzen questioned if traffic will be increased by the creation of this lot.

Mr. Boland said no.

Commissioner Litzen noted that, to be consistent since density is not being increased, they would want to recommend approval to waive the required road improvements.

Discussion followed.

Moved by Litzen and seconded by Hall to approve of Subdivision Regulations Variance / SV 14-02 to waive percolation tests and soil profile information; to waive topography at five foot intervals; to waive Section Line Highway improvements; to waive submittal of engineered road construction plans; and, to waive required road improvements to the 66-foot-wide access easement.

Commissioner McCollam suggested that road improvements be required, if there is additional subdivision of property in the area and that a condition be included indicating Mr. Boland is responsible.

Zeller stated this is not recommended by staff and explained that conditions can be placed on Subdivision Regulations, but it would be difficult to enforce in the future.

All voting aye, the Motion carried 6 to 0.

12. DISCUSSION OF VACATION HOME RENTALS.

(Continued from the February 24, 2014, Planning Commission meeting.)

Zeller stated the Planning Director brought forth the discussion of the Vacation Home Rental Ordinance to the Board of Commissioners at their March 4th meeting. At that meeting, the Board of Commissioners discussed that no changes needed to be made to the Ordinance at this time.

Commissioner Trautman responded and stated that there were not any issues presented to them at that meeting by the Director, so the Board of Commissioners did not feel there was a need for any changes to the Ordinance. Commissioner Trautman further stated that, if there are issues, they need to be brought to the attention of the Board of Commissioners and they were under the impression that there were no problems with it.

Chairman Zvejnieks spoke of the Planning Commission's intent to revisit the Ordinance a year following its adoption.

Zeller reviewed some of the identified issues, such as VH Rentals in Suburban Residential Zoning Districts and questions about revocation upon sale or transfer of the property. She also reviewed some e-mails that have recently been received by the Planning Department regarding VH Rentals.

Commissioner Trautman commented that it would have been nice to have a report prepared and presented to them addressing questions and concerns of the public, including concerns of staff. She also stated that Commissioner Holloway specifically asked the Director what kind of problems have you had and the Board was led to believe that there weren't any problems. She noted that it's not fair for the Board of Commissioners to not have the information presented to them.

Chairman Zvejnieks further discussed the 60-day timeframe within which applications could be submitted and the Planning Commission never envisioned that since the timeframe had passed, that applicants couldn't still submit further applications for VH Rentals in Suburban Residential Zoning Districts.

Commissioner Trautman stated that there does need to be some good discussion of the Ordinance, but the Board of Commissioners wasn't given all the information. The Board of Commissioners needs a good report with all the information presented.

Chairman Zvejnieks asked Commissioner Trautman that, if the Director prepared a report, would the Board of Commissioners be interested in discussing the Ordinance again.

Commissioner Trautman said the question was asked of the Director; if there were any problems, and he responded no, not really, so they questioned why they were even hearing about the Ordinance.

Discussion followed.

Mr. Jim Peterson, realtor, appeared and discussed the revocation upon sale/transfer of the property under a Conditional Use Permit for a VH Rental and, he also discussed not excluding VH Rentals in Suburban Residential Zoning Districts. Mr. Peterson further spoke of problems realtors deal with for potential buyers of VH Rentals, based upon the current Ordinance. Mr. Peterson also provided the Planning Commission with an e-mail he sent to the Planning Director with suggested changes to the current Ordinance.

Commissioner Hall addressed some concerns of Mr. Peterson, specifically VH Rentals in Suburban Residential Zoning Districts. She stated the intent was for the initial properties to apply and to be used as such in that zoning district and then revisit it in a year, to see if there were any problems with them.

Commissioner Hall asked if staff has received complaints with the VH Rentals.

Zeller said no complaints have been received by staff regarding VH Rentals that have been approved with a Conditional Use Permit.

Chairman Zvejnieks commented that, if this item is to move forward, the Planning Director needs to draft a report outlining the issues.

Conover asked the Planning Commission when they would like to see the report.

Commissioner McCollam recommended the Planning Commission receives the report a week prior to the meeting on April 14th, so that comments and suggestions can be made.

Moved by Litzen and seconded by Hall to have the Planning Department review the issues associated with VH Rentals and bring those items back to the Planning Commission at their April 14th meeting for discussion purposes and also that the Planning Director provide a detailed report of those issues to the Planning Commission one week prior to the April 14th meeting.

All voting aye, the Motion carried 6 to 0.

13. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commission's recommendations from the March 10, 2014, Planning Commission meeting with the exception of Minor Plat / PL 14-03 (John Donahue). This item was continued to the April 15, 2014, Board of Commissioners' meeting.

14. ITEMS FROM THE PUBLIC

There were no items from the public.

15. ITEMS FROM THE STAFF

- A. Pennington County Comprehensive Plan. Conover provided the Planning Commission with a preliminary proposal for a cost estimate from Clarion Associates, which will be discussed at the April 14th meeting.

Commissioner Trautman wanted to know what items will be recommended.

Zeller explained that there was a small committee formed and they will be reviewing the cost estimate and their recommendations will be brought to the Planning Commission for discussion and then to the Board of Commissioners.

- B. Planning Commission Items To Address: Conover stated these items will be reviewed at a Planning Commission meeting in April.

- C. Staff Report Format. Conover informed the Planning Commission that staff prepared a different Staff Report format for Item #7 and asked if there were any comments or suggestions.

Some of the Planning Commissioners liked this version of the bullet-point style and one liked the paragraph style with narrative.

Conover asked the Planning Commission if they would like to review other types of formats for Staff Reports.

The Planning Commission said they would review other formats from staff.

Commissioner Trautman also asked that staff inform the Planning Commission and Board of Commissioners beforehand, so that they are aware of the new format to comment on and make suggestions.

16. ITEMS FROM THE MEMBERSHIP

Commissioner Litzen said she may be gone May 12th and will be gone September 22nd.

Commissioner Coleman said he will be gone April 14th and possibly April 28th to deal with family issues.

Commissioner McCollam asked to see a set of general conditions for Mining Permits and that site specific conditions are separated so they can more easily review Mining Permits.

17. DISCUSSION ITEMS

There were no discussion items.

18. ADJOURNMENT

Moved by Hall and seconded by Coleman to adjourn.

All voting aye, the Motion carried 6 to 0.

The meeting adjourned at **10:30 a.m.**

Chairperson, Sig Zvejnieks