

**MINUTES
PENNINGTON COUNTY PLANNING COMMISSION**

April 14, 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 Lyndell Peterson.

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

ROLL CALL

1. APPROVAL OF THE MARCH 24, 2014, MINUTES
Moved by Hall and seconded by Litzen to approve the March 24, 2014, Planning Commission minutes. Vote: unanimous (6 to 0).

2. APPROVAL OF THE AGENDA
Moved by Litzen and seconded by Hall to approve the April 14, 2014, Planning Commission Agenda, with the removal of Items #7 and #8, and to place Item #13 on the Consent 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.

4. **CONDITIONAL USE PERMIT REVIEW / CU 07-11:** Bernard Ness; Ronnie Ness – Agent. To review an auto repair business in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

All Section less Right-of-Way, Section 1, T1N, R9E, BHM, Pennington County, South Dakota.

To approve of the extension of Conditional Use Permit / CU 07-11 with the following nine (9) conditions:

1. **That a Building Permit be obtained for any new structures exceeding 144 square feet and located on a permanent foundation, which will require a site plan to be reviewed and approved by the Planning Director;**

2. **That no alteration to any building shall indicate from the exterior that the building is being utilized in whole or in part for any purpose other than a residential or agricultural use;**

3. That a maximum of two (2) employees, not residing on the premises, may be employed by the home occupation;
4. That a minimum of four (4) off-street parking spaces be provided. Each parking space shall measure at least nine (9) feet by eighteen (18) feet and shall be kept in a dust free manner;
5. That DENR approval is needed prior to the installation of public restroom facilities;
6. That the address of the residence remains posted at 154th Avenue where it meets the applicant's property;
7. That the home occupation be limited to an auto body repair business. Any expansion beyond this would require the Conditional Use Permit to be reviewed;
8. That no material or auto parts be stored outside of an enclosed structure located on the property with the exception of a maximum of four (4) vehicles that may be temporarily stored outside in the shop yard while repairs are being made; and,
9. That this Conditional Use Permit be reviewed in two (2) years or on a complaint basis to determine if the conditions are being met.

Vote: unanimous (6 to 0).

5. **CONDITIONAL USE PERMIT REVIEW / CU 99-37:** Bob Young. To review a mobile home park in a Suburban Residential District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance.

The NW1/4NE1/4, Section 20, T2N, R8E, BHM, Pennington County, South Dakota.

(Continued from the March 10, 2014, Planning Commission meeting.)

To continue the review of Conditional Use Permit / CU 99-37 to the May 12, 2014, Planning Commission meeting.

Vote: unanimous (6 to 0).

6. **CONDITIONAL USE PERMIT / CU 14-09:** Jesse Rieb. To allow an existing single-family residence to be used as a second ranchhand's residence in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

All Section less right-of-way; less PT NW1/4NE1/4 and PT N1/2NW1/4, Section 11, T1S, R8E, BHM, Pennington County, South Dakota.

To approve of Conditional Use Permit / CU 14-09 with the following eight (8) conditions:

1. That a Building Permit be obtained for the proposed addition onto the second ranch hand's residence, in which a site plan and floor plan will be required to be provided by the applicant;
2. That the applicant sign a "Ranch Hand's Statement" verifying he is directly engaged in the operation of the farm or ranch located on the property, at the time of application for the Building Permit for the proposed addition;
3. That the residence be occupied by a ranch hand or used as housing for hired help at all times, and not be used as a rental by someone not engaged in the operation of the farm or ranch located on the property;
4. That separate addresses be assigned for each of the ranch hand's residences at that they be posted both at the approach on Antelope Creek Road and on the individual structures, in accordance with Pennington County's Ordinance #20;
5. That the newer outbuildings located in near proximity to the proposed second ranch hand's residence be removed or a Building Permit be obtained, if they are greater than 144 square feet in size, prior to issuance of a Building Permit for the proposed addition;
6. That if the applicant intends to utilize the existing on-site wastewater treatment system to service the second ranch hand's residence, the full specifications of this system be verified, including the drainfield size, in order for the Environmental Planner to determine if it is adequately sized to accommodate the proposed number of bedrooms in this residence. If this system was upgraded since 1994, an On-site Wastewater Construction Permit will also need to be obtained;
7. If the applicant is unable to determine the sizing of the existing on-site wastewater treatment system and/or the applicant desires to install a new on-site wastewater treatment system, an On-site Wastewater Construction Permit be obtained for review and approval by the Environmental Planner; and,
8. That this Conditional Use Permit be reviewed in two (2) years, on a complaint basis, or as directed by the Planning Commission to verify that all conditions of approval are being met.

Vote: unanimous (6 to 0).

9. **CONDITIONAL USE PERMIT AMENDMENT / CU 14-08:** Basin Electric Power Cooperative; Kevin Solie – Agent. To construct an addition to an existing electrical substation in a Limited Agriculture District in accordance with Sections 206 and 510 of the Pennington County Zoning Ordinance.

The S1/2SE1/4SW1/4; S1/2N1/2SE1/4SW1/4; SE1/4 SW1/4SW1/4 LESS W220ft; S1/2NE1/4 SW1/4SW1/4 LESS W220ft, Section 28, T1N, R8E, BHM, Pennington County, South Dakota.

To approve of Conditional Use Permit / CU 14-08 with the following nine (9) conditions:

- 1. That all existing drainage ways are maintained and that erosion control measures are implemented on all disturbed areas so as not to allow any sedimentation of existing drainage ways or bodies of water;**
- 2. That any post construction “Best Management Practices” be constructed as required by the water quality capture volume (Section 203 – Storm Water Quality Manual);**
- 3. That the facility be continually secured with a fence at least seven (7) feet in height;**
- 4. That two (2) off-street parking spaces be continually provided. Each space shall measure at least nine (9) feet by eighteen (18) feet and shall be kept in a dust free manner;**
- 5. That reasonable steps shall be taken to reduce light and sound emissions from the facility;**
- 6. That the installation of any additional breaker stations or items associated with the power line requires review and approval by the Pennington County Planning Department;**
- 7. That any permanent access, parking, loading and unloading zones provided for the structure within the fencing, be constructed with four (4) inch gravel, concrete or asphalt and maintained in such a manner that no dust will result from its continuous use;**
- 8. That any temporary access, parking, loading and unloading zones provided for the structure within the fencing, be restored to existing conditions prior to placement of the transformer station and to match the surrounding area; and,**
- 9. That this Conditional Use Permit be reviewed in two (2) years, on a complaint basis or as directed by the Planning Commission to verify compliance with the above-mentioned conditions of approval.**

Vote: unanimous (6 to 0).

- 10. CONDITIONAL USE PERMIT / CU 14-11: Leonard Kjerstad. To allow for a family cemetery on the subject property in a General Agriculture District in accordance with Sections 205, 307, and 510 of the Pennington County Zoning Ordinance.**

All, Section 11, T1N, R17E, BHM, Pennington County, South Dakota

To approve of Conditional Use Permit / CU 14-11 with the following four (4) conditions:

- 1. That the cemetery conforms to all regulations in Section 307 of the Pennington County Zoning Ordinance;**
- 2. That the applicant complies with South Dakota Codified Law 34-27, which regulates Cemeteries and Burial Records;**
- 3. That the applicant file the location map of the family cemetery with the Register of Deeds upon approval by the Planning Commission; and,**
- 4. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis or as directed by the Planning Commission to verify compliance with the above-mentioned Conditions of Approval.**

Vote: unanimous (6 to 0).

- 13. CONDITIONAL USE PERMIT / CU 14-07: Josh Bruning. To allow an illuminated, on-premise sign within 1,500 feet of a residential zoning district / dwelling unit in a Highway Service District in accordance with Sections 210 and 510 of the Pennington County Zoning Ordinance.**

Lot C of Lot 1 less Lot 1 of Lot C of Lot 1 and less right-of-way, Rohrer Subdivision, Section 29, T1N, R7E, BHM, Pennington County, South Dakota.

To continue Conditional Use Permit / CU 14-07 to the May 12, 2014, Planning Commission meeting.

Vote: unanimous (6 to 0).

END OF CONSENT CALENDAR

- 3. CONSTRUCTION PERMIT / CP 14-01: Advanced Engineering and Surveying, Inc. To replace approximately 5,500 linear feet of existing water main in accordance with Section 507 of the Pennington County Zoning Ordinance.**

Section 9, T1N, R6E, BHM, Pennington County, South Dakota.

Commissioner McCollam asked to have this item removed from the Consent Calendar to discuss the Conditions of Approval.

Molitor reviewed the Staff Report indicating the applicant has applied for a Construction Permit to replace approximately 5,500 linear feet of existing water main. The construction project will consist of two phases and there will be approximately 55,000 square feet of disturbance.

Staff recommended approval of Construction Permit / CP 14-01 with the following thirteen (13) 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 Construction Activities be continually met;
2. That the applicant continually maintains and adheres to the Storm Water Pollution Prevention Plan during the period of construction;
3. That any disturbed areas must have acceptable erosion control measures to prevent surface erosion and sediment leaving the site;
4. That street sweeping is done on Wheaton and Hisega Roads as needed to prevent sediment accumulation on roadway;
5. 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;
6. That the conditions of approval of the South Dakota Department of Transportation Utility Permit be continually met;
7. That the conditions of approval of the Pennington County Permit for Installation or Excavation within the Public Right-of-Ways be continually met;
8. That any waste material be removed by the end of the work day and is not to remain in the right of way;
9. That waste materials be disposed of according to all local, state, and federal guidelines/rules;
10. That access to homes be maintained at all times for emergency vehicles;
11. That an approved Conditional Use Permit be obtained for the staging area prior to commencement of any construction activity;
12. That the disturbed areas be revegetated as required in Section 507-A(5)(c); and,
13. That this Construction Permit expires in one (1) year from approval date.

Commissioner McCollam spoke of Condition #5 and questioned if the weekly recommended site inspections will be performed by staff or if this will be done by the contractor.

Molitor stated the contractor or whoever is responsible for the site will be doing the inspections and staff will be going to the site periodically.

Commissioner McCollam suggested that staff do the weekly inspections instead of relying on the contractor, as they are busy at the site.

Commissioner Litzen further reviewed the Conditions of Approval and commented that some of the conditions may be repetitive and wondered if they can be combined.

Molitor explained that she has included the same conditions for each of the Construction / Mining Permits, in order to be consistent with the applications.

Chairman Zvejnieks recommended site inspections be done for SWPP plans.

Discussion followed.

Moved by McCollam and seconded by Hall to approve of Construction Permit / CP 14-01 with the following thirteen (13) 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 Construction Activities be continually met;**
- 2. That the applicant continually maintains and adheres to the Storm Water Pollution Prevention Plan during the period of construction;**
- 3. That any disturbed areas must have acceptable erosion control measures to prevent surface erosion and sediment leaving the site;**
- 4. That street sweeping is done on Wheaton and Hisega Roads as needed to prevent sediment accumulation on roadway;**
- 5. 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;**
- 6. That the conditions of approval of the South Dakota Department of Transportation Utility Permit be continually met;**
- 7. That the conditions of approval of the Pennington County Permit for Installation or Excavation within the Public Right-of-Ways be continually met;**

8. That any waste material be removed by the end of the work day and is not to remain in the right of way;
9. That waste materials be disposed of according to all local, state, and federal guidelines/rules;
10. That access to homes be maintained at all times for emergency vehicles;
11. That an approved Conditional Use Permit be obtained for the staging area prior to commencement of any construction activity;
12. That the disturbed areas be revegetated as required in Section 507-A(5)(c); and,
13. That this Construction Permit expires in one (1) year from approval date.

All voting aye, the Motion carried 6 to 0.

7. 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.

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

Jennissen asked to have this item removed from the Consent Calendar to discuss minor changes to the Conditions of Approval. Jennissen reviewed the Staff Report indicating the applicants have applied to amend an existing Conditional Use Permit to include Lot 12 in the Recreational Resort.

Staff recommended approval of Conditional Use Permit Amendment / CU 14-04 with the following twenty-five (25) conditions:

1. That the Specialty Resort be for a Bed and Breakfast up to ten rooms and events, such as: weddings, receptions, company picnics, family reunions, church functions, bridal and baby showers, Christmas parties and other types of small gatherings similar in nature up to a maximum of 100 guests;
2. That a Building Permit be obtained for any structure exceeding 144 square feet or located on a permanent foundation, which includes the necessary site plans to be reviewed and approved by the Planning Director;
3. That the applicants ensure the residential character of the property is maintained;

4. That the specialty resort be conducted by members of the family residing on the premises and no more than one (1) additional person;
5. That all natural drainage paths be continually maintained;
6. That a business sign, which directs attention to the home occupation, shall be allowed with an approved Sign Permit. Such sign shall not exceed four (4) square feet in area and shall be limited to one such sign per approved home occupation use. Such sign shall be either a wall sign or a ground sign and shall not be located in any public right-of-ways;
7. That the address be properly and continually posted on both the residence and at the approach so it be visible in both directions in accordance with Pennington County's Ordinance #20;
8. That the applicant maintain an Emergency Plan and provide copies to all overnight guests in case there is a need to evacuate guests from the property in the event of an emergency and that a copy of said plan be kept on file at the Planning Department;
9. That a minimum of 34 parking spaces be provided on-site, each measuring a minimum of 9 feet by 18 feet and maintained in a dust-free manner in accordance with Section 310 of the Pennington County Zoning Ordinance;
10. That the driveways consist of a 24-foot-wide, graveled driving surface to accommodate two-way traffic;
11. That all music being provided for outdoor activities be shut down by 10:00 p.m.;
12. That temporary structures, such as tents and port-a-potties only be erected when needed and not on a permanent basis;
13. That all exterior lighting must be of low level intensity, which does not result in excessive glare upon surrounding neighbors;
14. That the applicant obtain all necessary permits from other governing bodies for operation of the Specialty Resort including, but not limited to, approval from the South Dakota Department of Health for the Bed & Breakfast and Specialty Resort and a Sales Tax License from the South Dakota Department of Revenue;
15. That a smoke detector be placed in each sleeping room utilized for the Bed and Breakfast with a minimum of at least one (1) smoke detector per floor;
16. That a portable fire extinguisher with a minimum 2 A-BC rating shall be placed on each floor level of the Bed and Breakfast so it accessible to all guests at all times and the fire extinguisher shall be inspected and tagged annually;

17. That the maximum number of people staying at the Bed and Breakfast establishment at one time be in compliance with the South Dakota Lodging Establishments Health and Safety Manual;
18. That the applicants comply with South Dakota Codified Law 34-18-9.4, which regulates Bed and Breakfast establishments and requires a guest list to be maintained;
19. That the physical address for the residence be posted in each guest room utilized for the Bed and Breakfast;
20. That port-a-potties may be utilized by the guests of the events for wastewater disposal at a ratio of one port-a-potty per 50 guests. Any other means of wastewater disposal will require proper permitting and review of the system by both the Pennington County Planning Department and South Dakota Department of Environment and Natural Resources;
21. That prior to the placement of any on-premise signs, the applicant must obtain approval of a Sign Permit;
22. That the Planning Director may allow additional development or construction, which is consistent with the existing development on this property. Significant changes in the use or impacts on adjacent land, uses as determined by the Planning Director, shall require an amendment to this Conditional Use Permit;
23. That Summer Creek Drive have a minimum of 4-inches of gravel to the applicants' driveway and maintained in a dust free manner;
24. That a barrier be placed along Summer Creek Road and the parking spaces, prohibiting people from backing directly into the right-of-way of Summer Creek Drive; and,
25. That the Conditional Use Permit be reviewed in one (3) years or on a complaint basis.

Jennissen further discussed the changes in the Conditions of Approval stating that Condition #1 should indicate up to a maximum of 150 guests; Condition #6 should state that the sign shall not exceed six (6) square feet; and Condition #25 should state three (3) years.

Chairman Zvejnieks spoke of the utilities, especially the water system, and questioned if the water system is registered with the State and tested as recommended, based upon the use of the property as a Recreational Resort. If not, he would like this to be included in the Conditions of Approval.

Jennissen indicated the condition could read: "That the well be continually tested and monitored for the State of South Dakota, per their regulations."

Mrs. Nancy Evangelisto, applicant, appeared and indicated that the well is being monitored by the State at this time.

Commissioner Litzen clarified with Jennissen that the recommended changes in the Conditions of Approval were typos from the previous Conditional Use Permit 10-17.

Jennissen said yes.

Commissioner Peterson spoke of Condition #9 regarding parking spaces and the Forest Service's comments that parking is not allowed on Forest Service land. He questioned if the addition of the extra lot will mean the applicants need to expand their parking spaces.

Jennissen explained that the applicants will be providing 41 parking spaces, and, at a minimum, have 34 parking spaces on-site at the property.

Moved by Hall and seconded by Litzen to approve of Conditional Use Permit Amendment / CU 14-04 with the following twenty-six (26) conditions:

- 1. That the Specialty Resort be for a Bed and Breakfast up to ten rooms and events, such as: weddings, receptions, company picnics, family reunions, church functions, bridal and baby showers, Christmas parties and other types of small gatherings similar in nature up to a maximum of 150 guests;**
- 2. That a Building Permit be obtained for any structure exceeding 144 square feet or located on a permanent foundation, which includes the necessary site plans to be reviewed and approved by the Planning Director;**
- 3. That the applicants ensure the residential character of the property is maintained;**
- 4. That the specialty resort be conducted by members of the family residing on the premises and no more than one (1) additional person;**
- 5. That all natural drainage paths be continually maintained;**
- 6. That a business sign, which directs attention to the home occupation, shall be allowed with an approved Sign Permit. Such sign shall not exceed six (6) square feet in area and shall be limited to one such sign per approved home occupation use. Such sign shall be either a wall sign or a ground sign and shall not be located in any public right-of-ways;**
- 7. That the address be properly and continually posted on both the residence and at the approach so it be visible in both directions in accordance with Pennington County's Ordinance #20;**
- 8. That the applicant maintain an Emergency Plan and provide copies to all overnight guests in case there is a need to evacuate guests from the property in the event of an emergency and that a copy of said plan be kept on file at the Planning Department;**

9. That a minimum of 34 parking spaces be provided on-site, each measuring a minimum of 9 feet by 18 feet and maintained in a dust-free manner in accordance with Section 310 of the Pennington County Zoning Ordinance;
10. That the driveways consist of a 24-foot-wide, graveled driving surface to accommodate two-way traffic;
11. That all music being provided for outdoor activities be shut down by 10:00 p.m.;
12. That temporary structures, such as tents and port-a-potties only be erected when needed and not on a permanent basis;
13. That all exterior lighting must be of low level intensity, which does not result in excessive glare upon surrounding neighbors;
14. That the applicant obtain all necessary permits from other governing bodies for operation of the Specialty Resort including, but not limited to, approval from the South Dakota Department of Health for the Bed & Breakfast and Specialty Resort and a Sales Tax License from the South Dakota Department of Revenue;
15. That a smoke detector be placed in each sleeping room utilized for the Bed and Breakfast with a minimum of at least one (1) smoke detector per floor;
16. That a portable fire extinguisher with a minimum 2 A-BC rating shall be placed on each floor level of the Bed and Breakfast so it accessible to all guests at all times and the fire extinguisher shall be inspected and tagged annually;
17. That the maximum number of people staying at the Bed and Breakfast establishment at one time be in compliance with the South Dakota Lodging Establishments Health and Safety Manual;
18. That the applicants comply with South Dakota Codified Law 34-18-9.4, which regulates Bed and Breakfast establishments and requires a guest list to be maintained;
19. That the physical address for the residence be posted in each guest room utilized for the Bed and Breakfast;
20. That port-a-potties may be utilized by the guests of the events for wastewater disposal at a ratio of one port-a-potty per 50 guests. Any other means of wastewater disposal will require proper permitting and review of the system by both the Pennington County Planning Department and South Dakota Department of Environment and Natural Resources;

21. **That prior to the placement of any on-premise signs, the applicant must obtain approval of a Sign Permit;**
22. **That the Planning Director may allow additional development or construction, which is consistent with the existing development on this property. Significant changes in the use or impacts on adjacent land, uses as determined by the Planning Director, shall require an amendment to this Conditional Use Permit;**
23. **That Summer Creek Drive have a minimum of 4-inches of gravel to the applicants' driveway and maintained in a dust free manner;**
24. **That a barrier be placed along Summer Creek Road and the parking spaces, prohibiting people from backing directly into the right-of-way of Summer Creek Drive;**
25. **That the well be continually tested and monitored for the State of South Dakota, per their regulations; and,**
26. **That the Conditional Use Permit be reviewed in three (3) years or on a complaint basis.**

All voting aye, the Motion carried 6 to 0.

8. CONDITIONAL USE PERMIT / CU 14-10: Dollar General; Conrad's Big C Signs – Agent. To allow two illuminated, on-premise signs within 1,500 feet of a residential zoning district / dwelling unit in a General Commercial District in accordance with Sections 209 and 510 of the Pennington County Zoning Ordinance.

Lot C of Tract 1, Paul Subdivision, Section 15, T1N, R8E, BHM, Pennington County, South Dakota.

Jennissen asked to have this item removed from the Consent Calendar to discuss the application, as there are audience members in attendance for this item.

Jennissen reviewed the Staff Report indicating the applicants have applied for a Conditional Use Permit to allow two illuminated, on-premise signs within 1,500 feet of a residential zoning district / dwelling unit in a General Commercial District. One of the proposed signs will be wall-mounted on the south side of the Dollar General Store and the other sign will be located at the intersection of E. Highway 44 and Longview Road.

Staff recommended approval of Conditional Use Permit / CU 14-10 with the following five (5) conditions:

1. That all lighting be installed and maintained so as to minimize spillage of light outside of the sign face so as not to create a nuisance and the sign must be effectively shielded to prevent beams or rays from being directed toward any portion of the traveled ways, and must not be of such intensity or brilliance to

cause glare or impair the vision of the driver of any motor vehicle or otherwise interfere with any driver's operation of a motor vehicle;

2. That the sign must meet a minimum of a five (5) foot setback from the front property lines;
3. That the sign conform to all regulations in Section 312 of the Pennington County Zoning Ordinance;
4. That this Conditional Use Permit is not valid until the applicant signs the Statement of Understanding, which is available at the Planning Office; and,
5. 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.

Commissioner McCollam spoke of access to the subject property and questioned if the access point was approved for the approach already in place on the subject property, which is farther away from E. Highway 44.

Jennissen explained that, after much discussion, the approach will be taken from a different spot, one which is located closer to E. Highway 44. The approach does meet the minimum requirements for the City of Rapid City and Pennington County, and the Approach Permit was approved as indicated on the site plan submitted with the Staff Report.

Ms. Rosemary Wolvington, landowner in the area, appeared and spoke of the proposed signs. She expressed concern with the curve of Longview Road and the intersection of E. Highway 44 where the pole sign for Dollar General will be placed. She stated there are a lot of accidents at that intersection and further expressed concern with the lighting of the pole sign and placement of it. Ms. Wolvington stated she is not against the store's location, but thought the pole sign could be placed somewhere else so that it doesn't become a distraction at that intersection with the additional traffic onto Longview Road.

Jennissen stated the application was routed to the City of Rapid City, County Highway Department, as well as the State Highway Department, since E. Highway 44 is a State road and Longview Road is maintained by the County. He noted that there was some concern of how close the access point for Dollar General was to E. Highway 44, but it does meet the minimum requirements of the City's, County's, and the State's Regulations.

Commissioner Hall asked staff to show where the signs will be placed on the property.

Jennissen indicated the pole sign will be located on the corner of E. Highway 44 and Longview Road and it will be about 16-feet-wide and about 21 feet in height. The other sign will be placed on the building.

Ms. Wolvington reiterated that she has lived in that area for over 40 years and has seen a lot of accidents because of the curve at that intersection. She also noted that, at different times throughout the years, signs have been placed in that spot and they are taken out by

the traffic accidents. She feels that with the store on Longview Road, it means more traffic and more accidents.

Chairman Zvejnieks noted to Ms. Wolvington that the Planning Commission can only take action on the allowance of the two signs, not the design of the road. He further asked Jennissen to review the Conditions of Approval for the proposed application with the public.

Jennissen reviewed the Conditions of Approval with the Planning Commission and the public and also explained that access to Dollar General will not be taken from E. Highway 44, but from Longview Road.

Chairman Zvejnieks asked Jennissen if the pole sign is parallel or perpendicular to E. Highway 44.

Jennissen said parallel.

Ms. Wolvington commented that she just wanted the Planning Commission to be aware of the traffic at the intersection.

Commissioner McCollam spoke of the site plan submitted with the Staff Report, which indicates the pole sign to be located about 100 feet from the road.

Vicki from Conrad's Signs, appeared, and informed the Planning Commission that the signs will be internally illuminated only and there will not be any type of flashing lights on them.

Moved by McCollam and seconded by Landers to approve of Conditional Use Permit / CU 14-10 with the following five (5) conditions:

- 1. That all lighting be installed and maintained so as to minimize spillage of light outside of the sign face so as not to create a nuisance and the sign must be effectively shielded to prevent beams or rays from being directed toward any portion of the traveled ways, and must not be of such intensity or brilliance to cause glare or impair the vision of the driver of any motor vehicle or otherwise interfere with any driver's operation of a motor vehicle;**
- 2. That the sign must meet a minimum of a five (5) foot setback from the front property lines;**
- 3. That the sign conform to all regulations in Section 312 of the Pennington County Zoning Ordinance;**
- 4. That this Conditional Use Permit is not valid until the applicant signs the Statement of Understanding, which is available at the Planning Office; and,**
- 5. 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.**

All voting aye, the Motion carried 6 to 0.

11. CONDITIONAL USE PERMIT / CU 14-06: Dakota Thyme, LLC; Julie Smoragiewicz – Agent. To allow for a Recreational Resort to allow up to 10 seasonal rental cabins, a manager’s residence, a maintenance shop and kitchen on the subject property in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

The S1/2S1/2NE1/4NE1/4, Section 32, T1S, R6E, BHM, Pennington County, South Dakota.

Conover reviewed the Staff Report indicating the applicant has applied for a Conditional Use Permit to allow for a Recreational Resort to allow up to 10 seasonal rental cabins, a manager’s residence, a maintenance shop and kitchen on the subject property.

Staff originally recommended approval of Conditional Use Permit / CU 14-06 with twenty-three (23) conditions, but will be adding another condition to address the monitoring of the well on the subject property.

Staff recommended approval of Conditional Use Permit / CU 14-06 with the following twenty-four (24) conditions:

1. That the applicant has the proposed improvements to Cosmos Road reviewed and approved by the Cosmos Road District and that a copy of the amended Approach Permit be provided to the Pennington County Planning Department prior to the issuance of any Building Permits;
2. That the applicant contact the Pennington County Addressing Coordinator to discuss addressing options for the cabins prior to the issuance of any Building Permits;
3. That the applicant contact the Pennington County Environmental Planner early in the planning stages for profile hole inspection to determine the locations and to verify the size and types of systems that can be installed;
4. Upon approval of the proposed driveway improvements, by the Pennington County Planning Department, and approach upgrades, by the Cosmos Road District, and determination of the location for the on-site wastewater treatment systems, the applicant will submit a revised site-plan to the Pennington County Planning Department;
5. That the minimum number of required parking spaces be determined and approved by the Planning Director depending upon the number of cabins. All off-street parking shall be in accordance with Section 310 of the Pennington County Zoning Ordinance which requires one parking space per guest bedroom and two parking spaces for every three employees;

6. That the property addresses be clearly posted on the property so it is visible from both directions along Cosmos Road in accordance to Pennington County's Ordinance #20;
7. That the operation of the Recreational Resort not interferes with the functioning or maintenance of Cosmos Road or Highway 16;
8. That the applicant obtains approved Sign Permit(s) prior to any signs being placed on the property, in accordance to Section 312 of the Pennington County Zoning Ordinance;
9. That the property remains free of debris and junk vehicles and the property, itself, and all structures be well-maintained;
10. That all existing drainage ways be maintained and that erosion control measures be implemented on all disturbed areas so as not to allow any sedimentation of existing drainage ways or bodies of water per Pennington County Zoning Ordinance Section 507-A; this includes any requirements set forth in the Pennington County Stormwater Quality Manual for erosion and sediment measures;
11. That the applicant obtains all necessary permits from other governing bodies for the operation of the Recreational Resort, including, but not limited to, approval from the South Dakota Department of Health and a Sales Tax License from the South Dakota Department of Revenue;
12. That an approved On-Site Wastewater Construction Permit be obtained prior to any septic system being installed on the subject property, which will also require review and approval by the South Dakota Department of Environmental and Natural Resources;
13. That there is functional open space for optimum preservation of natural features, including trees and drainage areas, recreation, views, density, relief and convenience in function;
14. The Planning Director may allow additional development or construction, which is consistent with the existing development on this property. Significant changes in the use or impact on adjacent land uses as determined by the Planning Director shall require a review or amendment of this Conditional Use Permit;
15. That the applicant maintains an Emergency Plan and provide copies to all overnight guests in case there is a need to evacuate guests from the property in the event of an emergency and a copy of said plan be kept on file at the Pennington County Planning Department;
16. That prior to Building Permits being issued for the subject property, the applicant meet with the Pennington County Fire Coordinator to develop a Fire Mitigation plan and an emergency turnaround on the property. Once this plan is in writing and all parties involved (applicant, owner, Pennington County Fire Coordinator

and the Pennington County Planning Director) have signed off on it, a copy of said plan will be kept on file at the Pennington County Planning Department;

17. That the driveway consist of a 24-foot-wide graveled driving surface to accommodate two-way traffic;
18. That all exterior lighting must be of low level intensity, which does not result in excessive glare upon surrounding neighbors;
19. That a smoke detector be placed in each sleeping room, with a minimum of at least one (1) smoke detector per floor;
20. That portable fire extinguishers with a minimum 2 A-BC ratings be placed on each floor level of each structure so they are accessible to all guests at all times and the fire extinguishers shall be inspected and tagged annually;
21. That the physical address for the residence be posted in each building on the subject property;
22. That quiet hours for the Recreational Resort be between 10 p.m. and 8 a.m.;
23. That the well be continually tested and monitored for the State of South Dakota, per their regulations;
24. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as directed by the Planning Commission to verify compliance with all the aforementioned Conditions of Approval.

Chairman Zvejnieks questioned if there is enough water capacity to service all the units requested and wanted to know if water will be stored on the property.

Conover stated he did not know at this time, but the applicants are at the meeting and could address this.

Ms. Julie Smoragiewicz, applicant, appeared and stated she has spoken with several well drillers about the options of drilling a well, but has not developed a specific plan at this time. She stated that it was recommended to them to have storage tank for about 1,200 gallons of water for the requested use, based upon wells in the area and the output.

Commissioner Zvejnieks also asked if there would be water available in the event of a power outage.

Ms. Smoragiewicz indicated that they would pump the water from the storage tank and have a generator as a backup.

Ms. Smoragiewicz spoke of Condition #17 where the driveway shall consist of a 24-foot-wide, graveled driving surface to accommodate two-way traffic. She asked if this is a requirement for the entire road or would the private drive be separate. Ms. Smoragiewicz

stated that they would like to make the driveway narrower than the 24-foot-wide requirement, but wider than what is already existing on the property.

Commissioner Litzen clarified that they are asking for a 24-foot-wide approach and then make the road narrower going into the property.

Ms. Smoragiewicz said yes and added that, on the section of the road going into the property, it does make sense to have a wider width in places, but, beyond that, there is plenty of space for two cars to pass.

Commissioner Zvejnieks questioned if the applicant would then need to apply for a separate Variance request.

Jennissen stated no, that the road width can be determined in the Conditions of Approval.

Commissioner Hall questioned Ms. Smoragiewicz if she wanted to widen the road that is there, but leave the width requirement to her discretion.

Ms. Smoragiewicz said staff could help determine the width, but she would like it be between 16- to 18-foot-wide for safe travel.

Commissioner Litzen said that Condition #17 could read: "That the approach into the subject property be 24-foot-wide and the internal roads are 16- to 18-feet in width."

Ms. Smoragiewicz commented they are not opposed to the 16-foot road width and also recommended that staff visit the subject property so that they are all in agreement with the recommendations.

Commissioner McCollam asked the applicants if it is their intent to keep the 24-foot-width at the joined access with the other property.

Ms. Smoragiewicz said that would be fine.

Chairman Zvejnieks recommended that the Planning Commission not leave the condition open-ended and include a recommended width.

Moved by Landers to approve of Conditional Use Permit 14-06 with twenty-four (24) conditions; change the wording in Condition #17 to read: "That the driveway consists of an 18-foot-wide, graveled driving surface to accommodate two-way traffic" and adding Condition #24 to read: "That the well be continually tested and monitored by the State of South Dakota, per their regulations." Seconded by McCollam.

The owner of the Cosmos appeared and discussed the applicant's proposed project. He expressed concern that the commercial development around the Cosmos would distract from the area. He feels this use would hurt his business and they have tried to keep the area looking nice and not change the rustic nature of the surrounding area.

Commissioner Litzen asked the owner of the Cosmos if he lives in the area.

The owner stated he lives in Rapid City.

Commissioner Litzen clarified that the Cosmos is the only commercial development in the immediate area.

The owner of the Comos said that is correct, but there are a few residential houses towards the end of Cosmos Road, located off of a private driveway.

Ms. Ann Hovdenes, property owner of 24024 Cosmos Road, appeared and spoke in opposition to the proposed request. She stated that they are new property owners in the area, and their property surrounds the Cosmos on the east side of it in a u-shaped lot. She expressed concern with the availability of water and indicated that the previous owners had their well go dry in the past and they had to drill down farther to get water. She also expressed concern with fire danger and people camping outside having fire pits. Ms. Hovdenes further spoke of increased traffic on the road going to and from the property, noting that the Cosmos closes at 9 p.m. Ms. Hovdenes asked that the applicants find a more commercialized area for their project and stated the proposed use would affect the enjoyment of their property.

Ms. Heidi Bybee, another owner of the Cosmos, also appeared and expressed concern with the proposed application. She also spoke of the availability of water in the area, wells going dry and security for the Cosmos property at night with the camping area close by. She further stated that there is noise coming from the Cosmos property, which starts at 7:30 a.m, announcing tours through an intercom system and this may affect the quietness of the camping area. Ms. Bybee also asked that the applicants not be allowed fire pits because of the potential of fire danger in the area and their business could also burn down.

Chairman Zvejnieks asked the applicants if the tours and music from the Cosmos would be a concern for their campers and if they have been to the site to see if they could hear the noise the owner is speaking of.

Ms. Smoragiewicz addressed this and feels this noise is no less disturbing than the noise that comes from the cabins already located along S. Highway 16. She further addressed the management of the pine beetle and fire mitigation in the area and stated the property has been thinned accordingly and also sprayed for pine beetles.

Commissioner Litzen advised the applicants that, in order for them to have a well and have it licensed for use through a commercial operation, their permit will not be approved until it has been determined that there is sufficient water in the area and this will be done through the SD DENR.

Commissioner Hall wanted to know if the cabins will have fire places in them and also if they intend to obtain fire permits to have fire pits.

Ms. Smoragiewicz stated that their personal residence will have a wood burning stove in it, and they would be applying to the State for use of fire pits and feels outdoor fires are part of the outdoor experience. They will be installing water spickets and the guests will have access to those as well.

Chairman Zvejnieks noted that the County Highway Department did not comment on the proposed application and asked staff if this item was routed to the DOT. He further expressed concern with the increased amount of turning traffic off of S. Highway 16.

Conover said staff did not route the request to them.

Chairman Zvejnieks indicated that it would be appropriate to get DOT's comments.

Jennissen said this could be routed to them, but the item would need to be continued.

Ms. Heidi Bybee explained that it is a very dangerous turn onto Cosmos Road from S. Highway 16. There have been numerous accidents over the years and they appealed to the State for turning lanes coming from Rapid City or coming from the Keystone direction turning into the Cosmos Road, but the requests haven't gone anywhere.

Commissioner Litzen asked the applicants to define the use of seasonal cabins and wanted to know if the cabins will be in use during the winter months.

Ms. Smoragiewicz stated their plan is to have them closed for several months over the course of the winter, but they would live at the property year-around.

Conover noted that staff would like to continue this item to the May 12th Planning Commission meeting in order for staff to route the request to the DOT and obtain a response from them and to also meet on-site with the applicant and the Fire Coordinator to review fire mitigation plans.

SUBSTITUTE MOTION: Moved by Landers and seconded by McCollam to continue Conditional Use Permit 14-06 to the May 12, 2014, Planning Commission meeting.

Commissioner Zvejnieks asked the applicants if the continuance would be a time constraint issue for them and if they have a concern with this.

Ms. Smoragiewicz noted that they would like to move forward, but also understand the concerns of the Planning Commission and surrounding property owners and that all concerns need to be addressed. She also stated that they would like the opportunity to hear from DOT.

All voting aye, the Motion carried 6 to 0.

12. CONDITIONAL USE PERMIT / CU 14-05: John and Lorraine Buhler – Black Pine Distillery. To allow for a home occupation to distill alcohol spirits located in an outbuilding on the subject property in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

Lot 8 of Lot A of SW1/4SW1/4, Section 20, T2N, R7E, BHM, Pennington County, South Dakota.

Zeller reviewed the Staff Report indicating the applicants have applied for a Conditional Use Permit to allow for a home occupation to distill alcohol spirits located in an outbuilding on the subject property. The applicant's specific proposal is to learn how to distill alcohol spirits by operating a small-scale distillery in a detached garage located on the property, and the proposed name of the distillery is Black Pine Distillery, LLC. Once the applicant learns the trade and perfects his product, he will move the distillery to a larger facility in a different location. He also indicated there will be no extra traffic, no noise, and no odor that will be a concern to the neighborhood.

Zeller further stated the applicant indicated that no materials will be disposed of in the existing on-site wastewater treatment system on the property. The spirits will be created from water, sugar, and grain or fruit typically and that no harmful chemicals are used. Additionally, no liquid wastes will be produced and the solid waste products will be dried out and thrown away in the garbage.

Zeller noted that staff did receive one letter in opposition to the proposed request prior to the Planning Commission meeting and reviewed the concerns outlined in the letter.

Staff recommended approval of Conditional Use Permit #14-05 with the following eleven (11) conditions:

1. That the proposed home occupation be located entirely within an enclosed structure and that the residential character of the property be maintained;
2. That one (1) home occupation sign be allowed that does not exceed six (6) square feet in area, in accordance with Section 312-A-12 of the Pennington County Zoning Ordinance, and that a Sign Permit be obtained prior to installation;
3. That prior to operation, the applicant contact the Rapid City Public Works Department, DENR, and the EPA to notify them of the distillery operation and plans for waste disposal. Any issues identified by these agencies must be addressed prior to operation;
4. That no distillery wastes be disposed of in the existing on-site wastewater treatment system on the property unless approval is obtained from Rapid City, DENR, and the EPA;
5. That storage and disposal of materials, liquids, and wastes used to distill spirits shall be in a manner that meets all Local, State, and Federal requirements;
6. That all necessary Local, State, and Federal licenses and permits be obtained prior to operation of the distillery, including an Artisan Distillery License from the South Dakota Department of Revenue and a Distilled Spirits Permit from the U.S. Alcohol and Tobacco Tax and Trade Bureau and that copies of these licenses and permits be provided to the Planning Department;
7. That the applicant continually comply with all applicable Local, State, and Federal laws and regulations, including the provisions of South Dakota Codified Law Chapter 35-13;

8. That no on-premise retail sales be allowed and no customers be allowed on-site;
9. That reasonable measures are taken to control odors, fumes, dust, noise, vibration and lighting resulting from the home occupation so as to not constitute a nuisance to the general public;
10. That the address for the property be properly posted in accordance with Pennington County's Ordinance #20; and,
11. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as directed by the Planning Commission to verify that all conditions of approval are being met.

Chairman Zvejnieks informed the Planning Commission that Commissioner Landers lives in the area and stated she would abstain from voting on this item. Chairman Zvejnieks also asked about the letter in opposition that was received and questioned the use of water from the community water system.

Zeller stated the applicant is at the meeting and could provide additional information on the water supply and further added that the applicant is the president of the water association and will only be using distilled water. He indicated the water from the community water system is too hard to use in making distilled spirits.

Mr. John Buhler, applicant, appeared and addressed the concerns of the neighboring landowner and the Planning Commission. He stated that there will be no traffic to the property and he will only be using distilled water to make the product. The building he will be using is a block-style and fire extinguishers will be on-site, so fire concern will be at a minimum and everything will be electric. He will not be advertising and there will not be any signage. The FTA will have access to the site at any time to check on him. Once he perfects his product, he will be moving it to another location. Mr. Buhler further explained that the waste product is all edible and reusable.

Commissioner Hall asked Mr. Buhler if he has ever operated a distillery before.

Mr. Buhler said he has not, but has done a lot of research and followed all the procedures to be in compliance.

Commissioner Hall questioned if he has access to water in the garage and how the equipment will be cleaned.

Mr. Buhler said no and that he would bring in a hose to clean the equipment.

Commissioner Hall wanted to know what kind of product he would be distilling.

Mr. Buhler stated moonshine or light whiskey.

Commissioner Hall spoke of the methanol created from distilling and wanted to know what will be done with it.

Mr. Buhler advised that he will be using it again and by putting back in for the next batch which keeps concentrating it.

Commissioner Hall clarified with the applicant that nothing would be going into the septic system.

Mr. Buher said nothing will be placed in the system.

Commissioner Hall also inquired if there will be any odors from the product.

Mr. Buhler explained that the odor is at a minimum and it would also be contained inside the garage.

Moved by Litzen and seconded by McCollam to approve of Conditional Use Permit #14-05 with the following eleven (11) conditions:

- 1. That the proposed home occupation be located entirely within an enclosed structure and that the residential character of the property be maintained;**
- 2. That one (1) home occupation sign be allowed that does not exceed six (6) square feet in area, in accordance with Section 312-A-12 of the Pennington County Zoning Ordinance, and that a Sign Permit be obtained prior to installation;**
- 3. That prior to operation, the applicant contact the Rapid City Public Works Department, DENR, and the EPA to notify them of the distillery operation and plans for waste disposal. Any issues identified by these agencies must be addressed prior to operation;**
- 4. That no distillery wastes be disposed of in the existing on-site wastewater treatment system on the property unless approval is obtained from Rapid City, DENR, and the EPA;**
- 5. That storage and disposal of materials, liquids, and wastes used to distill spirits shall be in a manner that meets all Local, State, and Federal requirements;**
- 6. That all necessary Local, State, and Federal licenses and permits be obtained prior to operation of the distillery, including an Artisan Distillery License from the South Dakota Department of Revenue and a Distilled Spirits Permit from the U.S. Alcohol and Tobacco Tax and Trade Bureau and that copies of these licenses and permits be provided to the Planning Department;**
- 7. That the applicant continually comply with all applicable Local, State, and Federal laws and regulations, including the provisions of South Dakota Codified Law Chapter 35-13;**

8. That no on-premise retail sales be allowed and no customers be allowed on-site;
9. That reasonable measures are taken to control odors, fumes, dust, noise, vibration and lighting resulting from the home occupation so as to not constitute a nuisance to the general public;
10. That the address for the property be properly posted in accordance with Pennington County's Ordinance #20; and,
11. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as directed by the Planning Commission to verify that all conditions of approval are being met.

All voting aye, the Motion carried 5 to 0. Commissioner Landers abstained from voting.

14. 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.

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

Conover reviewed the Staff Report indicating the applicant has applied for a Telecommunications Facility Permit in order to allow a 190 foot stealth monopine pole and equipment shelter on the subject property.

Staff recommended denial of Telecommunication Facility Permit 14-07 as the application is not in harmony with Section 316 of the Pennington County Zoning Ordinance.

If the Planning Commission does approve Telecommunication Facility Permit #14-01, to allow a 190-foot stealth monopole in a General Agriculture District, staff recommends the following ten (10) conditions be included:

1. That a Building Permit is obtained for the installation of the tower and equipment building to be reviewed and approved by the Planning Director;
2. That a security fence, measuring at least seven (7) feet in height, be installed and maintained around the radio tower and transmission building;
3. That the address be properly posted in accordance with Ordinance #20;
4. That a minimum of two (2) off-street parking spaces be provided. Each space shall measure at least nine (9) feet by eighteen (18) feet and be maintained in a dust free manner;

5. That emergency radio communication equipment be allowed on the tower as long as it does not interfere with the applicant's broadcast equipment;
6. That the approach currently used to access continually be used to gain access to the Telecommunication Facility;
7. That the applicant protects all posted boundary line corners, and bearing trees on National Forest Service land; adhere to the setback requirements along the posted boundary between National Forest Service lands and private property; that all access to project area will need to be entirely from private property and not from National Forest Service land and that drainfields, leach lines on or across National Forest Service land will need to be underground;
8. That proper setbacks from the property lines and all utilities be maintained for all structures located on the property, or a setback variance be obtained;
9. That the Telecommunications Tower continues to meet the requirements and guidelines of Section 316 of the Pennington County Zoning Ordinance; and,
10. That the Stealth Monopine pole be constructed in accordance with Telecommunication Industry Standard ANSI/TIA-22-G "Structural Standard for Antenna Supporting Structures and Antennas."

Commissioner Hall asked staff to review the property owner's adjoining lot to the west and characteristics of it in relation to the proposed selected site for the tower.

Conover explained that it is flat and open on the east side, with pine trees located on the west half of the property; whereas, the selected site is flat and open on the west side with pine trees covering most of the land on the east side of the property. He further reviewed the existing coverage map showing the gap that will be filled by placement of the proposed tower on the subject property.

Mr. John Rowe, agent, appeared and spoke of the concerns addressed by staff in the Staff Report. He also noted that he did send a certified letter to the fire station but it was returned back to him. Since there isn't anyone at the station from 8-5, he believes this is why they may have not received their letter. He further spoke of innovative designs for towers and placement of a tower in this area as you are driving upwards on W. Highway 44 and out to Highway 385. Mr. Rowe then reviewed the coverage area with the Planning Commission and the public. He also indicated that the purpose of this site location is to also provide coverage for people located in canyons in the surrounding area.

Mr. Rowe also discussed the tower height and setback stating they missed meeting the setback of the height of the tower by 9 feet and asked staff to clarify this, since the Staff Report also spoke of a 40 foot setback.

Jennissen stated the applicant is short on the south property line and would be encroaching into the applicant's other property on the west side, which is separated by the road.

Mr. Rower noted that, if the tower height is lowered by 10 feet, a Setback Variance would not be required for the setback to W. Highway 44.

Jennissen said that is correct, but the Variance will still be needed for the setback to the west property line.

Mr. Rowe also clarified that he is also able to change the height of the tower during the hearing process, but wanted to hear from the public, surrounding landowners, and the Planning Commission first to listen to suggestions on collaborating for an approved site in the area.

Commissioner Litzen commented and said the landowners would like to have the tower located by trees to blend in with the area.

Mr. Rowe stated that the Planning Director said the tower could be placed on a different site on the owner's property, but that's when he runs into issues with the other neighboring property owner's concerns and the coverage area would change. He did note that the higher the tower is, the more coverage they can get for people with property in canyons. He also stated they did look at another piece of property in the area owned by Dennis Swanson, but they could not negotiate an agreement with him.

Commissioner Litzen said the neighbors did not want to look out their front door and see a big pole and they also didn't want a big tree where there weren't other trees.

Chairman Zvejnieks asked about FAA lighting and also questioned coverage and the closer you are to the road, if you are actually in the shadow of that coverage.

Mr. Rowe responded and stated this is a misconception and when a tower is initially built, it's not on the air yet and customers believe there are signals transmitting, when they are not. He further explained that it takes about 60 days after the tower is built for it to be fully operational. Mr. Rowe also addressed the lighting and stated that, if you stay under 200 feet and there are no other issues with the airport, the tower does not need to be lighted or marked. On the FAA website, you click on the Notice Criteria Tool and enter in your information and this will tell you if the tower needs to be lighted.

Commissioner Litzen again spoke of the neighbor's comments and that the tower will stick out because of its location and height. She asked the landowners if there is a more appropriate place and some of them indicated there area undeveloped areas that would work.

Mr. Rowe addressed this concern and noted that he is limited because of the geography in the area to place the tower.

Discussion followed.

Planning Commission recessed at 10:57 a.m.

Planning Commission reconvened at 11:04 a.m.

Mr. Rowe questioned that, if the tower height is lowered to meet the setback to the highway, would this make a difference in whether the application is approved, based upon the information in the Staff Report.

Commissioner Hall wanted to know if this will then alter the cell phone coverage.

Mr. Rowe said he can bring back graphs showing coverage for the tower height at 180 feet, 170 feet, 160 feet, and 150 feet, if this item is continued.

Mr. Ken Davis, appeared, and said he was contacted by the landowners and stated that W. Highway 44 is a state controlled scenic highway. He also stated that the landowners in the area would like the tower placed behind Mr. Theberge's residence. He also expressed concern with the tower being lighted. He spoke of the fire station and how they use digital phones now and the Life Flight helicopter uses the parking area at the fire station to land and take off from when responding to accidents in the area.

Mr. Jeff Sugrue, from Silver City, appeared and stated that he travels W. Highway 44 two to six times a day and there is a dead zone in this area. He feels that this area is a traffic safety issue because of the sporadic signals and then when people do get a signal, they immediately pull off along the side of the road to keep the signal and this creates a traffic hazard. He expressed concern that there is good cell phone coverage in this area and not spotty signals. He spoke of the aesthetics of the tower and he doesn't know how the look of this tower will be mitigated. He would like a flag pole tower, which would be less obtrusive and not as distracting, but he doesn't know if it would have the capabilities of the proposed tower. He also showed the Planning Commission the location of a private driveway (Falling Rock Road), located to the west of the proposed site, to see if the tower could be placed along the ridge, which may still get the coverage needed for the area and would be out of the public's view.

Commissioner Hall questioned if there are residences along the top of the ridge.

Mr. Sugrue said no, not until you get towards the end of that road near Rapid Creek.

Mr. Rowe commented that the road may slope downhill, but he would perform a site visit to the road and look at the slope of it.

Commissioner Litzen commented that this item should be continued to the April 28th Planning Commission meeting or to a later meeting, if the applicant needs more time for research.

Mr. Rowe stated that he is okay with the continuance to the April 28th meeting and also asked that the Setback Variance then be continued to the May 6th Board of Commissioners' meeting. He also indicated that he would look at the different locations and provide maps of coverage areas, based upon the locations and different heights of the tower.

Moved by Litzen and seconded by McCollam to continue Telecommunications Facility Permit 14-01 to the April 28, 2014, Planning Commission meeting.

Chairman Zvejnieks stated he would abstain from voting on this item, as the company he works for prepares surveys for Verizon.

Commissioner Hall stated she would abstain from voting on this item as she lives in the area that the tower will be providing cell phone service to.

Mr. Ken Davis asked both Commissioner Hall and Chairman Zvejnieks if they would gain anything financially from abstaining.

Commissioner Hall said no.

Mr. Patrick Grode, Deputy State's Attorney, noted that Commissioner Hall does not have a financial interest.

Commissioner Hall stated she would vote on the item.

All voting aye, the Motion carried 5 to 0. Chairman Zvejnieks abstained from voting.

15. DISCUSSION OF VACATION HOME RENTALS.

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

Jennissen reviewed Vacation Home Rentals with the Planning Commission and the public. He stated that, since the adoption of the Vacation Home Rental Ordinance, there have been 18 approved Conditional Use Permits allowing vacation home properties, and staff has not received any complaints regarding their operation. There are other Vacation Home Rentals in Pennington County; many are "grandfathered" as they have been in operation prior to February 1, 1994. Other Vacation Home Rentals are located within Planned Unit Developments, General Commercial, or Highway Service Zoning Districts, which do not require a Conditional Use Permit in order to operate. Eleven of the 18 Conditional Use Permits have been for VH Rentals in Suburban Residential Zoning Districts (SRD).

Jennissen further explained that, since the adoption of the Ordinance, staff has received phone calls from people inquiring whether or not a Vacation Home Rental can be operated on certain properties within Pennington County. If the properties are zoned appropriate, a Conditional Use Permit is required prior to the operation of a Vacation Home Rental. If the property is zoned SRD, people were told that they are not allowed, as they are prohibited in SRD unless "grandfathered." Jennissen also discussed the regulation where Conditional Use Permits for Vacation Home Rentals are automatically revoked upon sale or transfer of the property.

Jennissen stated that, on March 4th, the topic of the Vacation Home Rental Ordinance was brought forth to the Board of Commissioners and they indicated that no action be taken on this item.

Mr. Jeff Sugrue, member of the public, appeared and questioned why the Ordinance would be amended to allow the transfer in Suburban Residential Zoning Districts. He feels they developed a solid ordinance to allow people to apply to operate them legally. If the transfer of Vacation Home Rentals is adopted, it would allow new owners to operate but would not allow others to be able to apply. It would give the new property owner permission that no one else has. He asked the Planning Commission to not amend the Ordinance to allow the change in transfer of existing Conditional Use Permits. This protects SRD owners and keeps the definition of SRD clear and this type of business truly belongs in a commercial-type of environment.

Mr. Jim Peterson, realtor, appeared and discussed the revocation of a VH Rental under a CUP upon sale or transfer of the property. He feels this is a detriment to people and that this is an economic waste when people have to apply to obtain a new Conditional Use Permit, if a new owner purchases a property already operated as a VH Rental. He also doesn't believe that it was the intent that others couldn't apply for a VH Rental in Suburban Residential Zoning Districts.

Ms. Joyce Sugrue, member of the public, appeared and stated she lives in Johnson Siding. She spoke of a residence used as a VH Rental and there were problems with it being used as such. She also stated she was fully aware of what the proposed Ordinance would be doing in only allowing so many days within which to apply for Vacation Home Rentals in SRDs and also revoking upon sale or transfer of the property. It was to limit them in Suburban Residential Zoning Districts.

Mr. Perry Grosz, landowner of a property zoned SRD, appeared, and stated he is completely surrounded by land zoned General / Limited Agriculture District and he would like to apply to operate a vacation home on his property, but is unable to do because of what he is zoned as and the deadline to initially apply in SRD has passed.

Mr. Lyndell Peterson clarified that, if proposed changes are brought forth by the Planning Commission, is it still the same process for which a member of the public would also submit and apply to amend any part of the Zoning Ordinance.

Jennissen said yes.

Commissioner Landers stated that, based upon the numbers, there isn't the need to change any part of the VH Rental Ordinance.

Commissioner Hall commented that there does need to be some discussion, especially eliminating them in Suburban Residential Zoning Districts upon the sale or transfer of the property.

Commissioner Litzen commented that this part seems to be an unintended consequence of the current Ordinance and several members of the public have come forward stating that this was the intent of the Ordinance – to get rid of VH Rentals in SRDs.

Commissioner Hall also indicated that the Planning Commission intended to revisit the SRD part of the Ordinance in one year to review any feedback and to look at extending VH Rentals in SRD and this was never done.

Jennissen said the Board of Commissioners felt that everything is working just fine in SRDs for the Ordinance and they knew that Vacation Home Rentals operating in SRDs would be revoked upon sale or transfer and not allowed to reapply.

Mr. Ken Davis, County Board Commissioner, appeared, and stated that is exactly what they meant for VH Rentals in a Suburban Residential Zoning District. He feels that VH Rentals are not appropriate in that zoning district.

Discussion followed.

Moved by Litzen and seconded by Hall to direct the Planning Director to prepare a draft Ordinance Amendment for VH Rentals to remove the revocation upon sale or transfer, under a Conditional Use Permit, to operate a VH Rental in Limited Agriculture District, General Agriculture District, and Low Density Residential Zoning District.

Jennissen stated he would review the Planning Commission's recommendation at the May 6th Board of Commissioners' meeting.

All voting aye, the Motion carried 6 to 0.

16. DISCUSSION OF PENNINGTON COUNTY COMPREHENSIVE PLAN.

Jennissen informed the Planning Commission that Commissioner Hall and Chairman Zvejnieks and Planning staff met with Blaise Emerson, from BH Council of Local Governments, to discuss the County's Comprehensive Plan. Jennissen stated he would also speak with other entities to see what their process has been and to also contact Clarion Associates to narrow their focus and to get the estimated costs lowered.

Discussion further followed between the Planning Commission and staff. The Planning Commission asked that the Planning Department obtain other entities' Comprehensive Plans and bring those back for discussion purposes and to also get more information from Clarion Associates.

17. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commission's recommendations from the April 1, 2014, Planning Commission meeting.

18. ITEMS FROM THE PUBLIC

There were no items from the public.

19. ITEMS FROM THE STAFF

A. Building Permit Report. Jennissen reviewed the Building Permit Report for March 2014.

20. ITEMS FROM THE MEMBERSHIP

Commissioner Zvejnieks suggested combining Items From the Membership and Discussion Items on the Agenda.

Staff stated they would need to review the By-Laws first to see if these items are listed as such for Agenda purposes.

Commissioner Litzen also spoke of Dakota Thyme and clarified the continued date of this item, which is May 12th. She stated that she didn't realize there was still the last meeting on April 28th the applicant's item could have been continued to.

21. DISCUSSION ITEMS

There were no discussion items.

22. ADJOURNMENT

Moved by Litzen and seconded by Hall to adjourn.

All voting aye, the Motion carried 6 to 0.

The meeting adjourned at **12:57 p.m.**

Chairperson, Sig Zvejnieks