

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

County Commissioners' Meeting Room - Pennington County Courthouse

MEMBERS PRESENT: Sig Zvejnieks, Lori Litzen, Jim Coleman, Bill McCollam, and Barbara Landers.

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

ROLL CALL

1. APPROVAL OF THE MAY 27, 2014, MINUTES
Moved by Litzen and seconded by Coleman to approve the minutes of the May 27, 2014, Planning Commission Meeting. Vote: unanimous (5 to 0).

2. APPROVAL OF THE AGENDA
Moved by Landers and seconded by McCollam to approve the Agenda of the June 9, 2014, Planning Commission Meeting, including the Consent Calendar. Vote: unanimous (5 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 01-18:** Randy and June Guliuzza. To review a Bed and Breakfast as a home occupation in a Low Density Residential District in accordance with Section 207-C-1 of the Pennington County Zoning Ordinance.

Tract 2 of Shelter in the Hills Subdivision, Section 24, T1S, R6E, BHM, Pennington County, South Dakota.

To recommend to continue the review of Conditional Use Permit / CU 01-18 to the July 14, 2014, Planning Commission meeting.

Vote: unanimous (5 to 0).

4. **CONDITIONAL USE PERMIT REVIEW / CU 07-18:** Terry Skillman. To review a guest house in Limited Agriculture and General Agriculture Districts in accordance with Sections 206, 205, and 510 of the Pennington County Zoning Ordinance.

Lot 1 (also in Section 13), Aspen Meadows Subdivision, Section 24, T2N, R4E, BHM, Pennington County, South Dakota.

To approve of the extension of Conditional Use Permit / CU 07-18 with the following nine (9) conditions:

1. **That the guesthouse may not be used as a permanent residence or as a rental under any circumstances;**
2. **That the cabin and the single-family residence must have a minimum of two (2) nine (9) foot by eighteen (18) foot parking spaces;**
3. **That a minimum of twenty-five (25) foot setbacks be maintained for all structures located on the property;**
4. **That all U.S. Forest Service property lines and markers must be maintained and respected;**
5. **That the guesthouse be allowed with a Conditional Use Permit when used on a temporary-basis only. If the guesthouse were to be used on a permanent-basis, the property would need to be subdivided to create two (2) lots, each with only one (1) residence on each lot;**
6. **That the guesthouse and single-family residence must utilize the existing private access easement from Jenny Gulch Road as the approach to the property;**
7. **That the address for the guesthouse be posted so that it is easily visible at the approach from Jenny Gulch Road, the driveway to the guesthouse and on the guesthouse itself;**
8. **That a Building Permit be obtained for any structure exceeding 144 square feet or located on a permanent foundation, which requires a site plan to be reviewed and approved by the Planning Director; and,**
9. **That this Conditional Use Permit be reviewed on a complaint basis only.**

Vote: unanimous (5 to 0).

5. **CONDITIONAL USE PERMIT REVIEW / CU 08-27:** Soderquist Family Ranch LTD Partners. To review a single-wide mobile home in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

All less Right-of-Way, Wasta Township No. 2, Section 19, T1N, R14E, BHM, Pennington County, South Dakota.

To approve of the extension of Conditional Use Permit / CU 08-27 with the following six (6) conditions:

1. **That an address be assigned for the residence and properly posted on both the structure and the approach off of Base Line Road in accordance with Pennington County's Ordinance #20;**
2. **That the property remains free of debris and junk vehicles;**
3. **That all natural drainage paths are maintained;**
4. **That a Building Permit be obtained for any structure exceeding 144 square feet or located on a permanent foundation, which requires a site plan to be reviewed and approved by the Planning Director;**
5. **That a Floodplain Development Permit be submitted for review and approval prior to any work or placement of any structure within the boundaries of the 100-year floodplain; and,**
6. **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 (5 to 0).

6. **CONDITIONAL USE PERMIT / CU 13-01:** Loretta Daigle / Lazy Rocking D, LLC; Rushmore Vacation Rentals – Local Contact. To allow for a Vacation Home Rental in a General Agriculture District in accordance with Sections 205, 319, and 510 of the Pennington County Zoning Ordinance.

Lot 1 of the NW1/4NE1/4, Section 22, T2S, R4E, BHM, Pennington County, South Dakota.

To approve of the extension of Conditional Use Permit / CU 13-01 with the following seven (7) conditions:

1. **That the maximum overnight occupancy, based on DENR's approval, be limited to twelve (12) people and the maximum daytime occupancy be limited to eighteen (18) people;**

2. That the applicant maintains current licenses with the South Dakota Department of Health (Vacation Home License) and the Department of Revenue (Sales Tax License) and that copies of these Licenses be provided to the Planning Department prior to operation of the Vacation Home Rental;
3. That a minimum of five (5) off-street parking spaces be provided on-site, each measuring a minimum of nine (9) by eighteen feet and maintained in a dust-free manner;
4. That an interior informational sign be posted in accordance with the requirements of Section 319-G., during operation of the residence as a VHR;
5. That the lot address be posted at all times so it is clearly visible from White Horse Road, in accordance with Ordinance #20;
6. That the applicant ensures the VHR is operated in accordance with the requirements of Section 319-F. (Performance Standards) at all times;
7. 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 (5 to 0).

7. **PLANNED UNIT DEVELOPMENT REVIEW / PU 06-07:** Black Hills Resorts, Inc. (Cimarron Park). To review a Planned Unit Development to allow a mobile home park in accordance with Section 213 of the Pennington County Zoning Ordinance.

Tract C of Lot B of NE1/4 NW1/4 less Pengra Subdivision, Section 17, T2N, R7E, BHM, Pennington County, South Dakota.

(Continued from the May 12, 2014, Planning Commission meeting.)

To recommend to continue the review of Planned Unit Development / PU 06-07 to the July 14, 2014, Planning Commission meeting.

Vote: unanimous (5 to 0).

8. **CONDITIONAL USE PERMIT / CU 14-18:** Hills Materials Co.; Bud Oleson – Agent. To allow for a temporary stockpile site for contract work on W. Highway 44 in a General Commercial District in accordance with Sections 209 and 510 of the Pennington County Zoning Ordinance.

Tract 1 of SE1/4, Section 11, T1N, R6E, BHM, Pennington County, South Dakota.

To approve of Conditional Use Permit / CU 14-18 with the following eight (8) conditions:

- 1. That all applicable federal, state, and local permits are obtained prior to commencement of any activity on the site;**
- 2. That the conditions of all required permits be continually met;**
- 3. That drainage ways near the site are protected with proper Best Management Practices;**
- 4. That the applicant provide self-contained toilets on-site: one (1) unit per 50 employees. The self-contained toilets must meet all State and County regulations, including setbacks;**
- 5. That access to the site be taken from the improved portion of the Section Line Right-of-Way;**
- 6. That a temporary address be assigned and posted on the property in accordance with Ordinance #20 so that it is visible from the road;**
- 7. That the site be re-vegetated as required by Section 507-A(5)(c) of the Pennington County Zoning Ordinance; and,**
- 8. That this Conditional Use Permit be reviewed in six (6) months or on a complaint basis.**

Vote: unanimous (5 to 0).

- 9. CONDITIONAL USE PERMIT / CU 14-19: Kristina Trautman. To allow for an accessory structure (shed/garage) prior to a primary structure in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.**

Tract B of Lot 1 of NW1/4NW1/4, Section 19, T1S, R5E, BHM, Pennington County, South Dakota.

To approve of Conditional Use Permit / CU 14-19 with the following eleven (11) conditions:

- 1. That the existing approach off of Marshall Gulch Road be utilized or else an Approach Permit be obtained from the County Highway Department and the existing approach be abandoned;**
- 2. That if the applicant chooses to install any plumbing within or on the outside of the accessory structure, it be hooked into a proper means of wastewater**

disposal with overall adherence to all necessary State and County regulations and an On-Site Wastewater Construction Permit be obtained;

- 3. That Building Permits be obtained for any structure exceeding 144 square feet or located on a permanent foundation;**
- 4. That the applicant maintains all required setbacks during new construction and a Floodplain Development Permit be obtained if the applicant chooses to build a structure within the 100-year Floodplain;**
- 5. That the accessory structures be used for personal use only and no commercial-type uses;**
- 6. That the property remains free of debris at all times;**
- 7. That all natural drainage paths be maintained;**
- 8. That the address, once assigned to the property, be posted so it is clearly visible from Marshall Gulch Road in accordance with Pennington County's Ordinance #20;**
- 9. That prior to any work being conducted within the 100-year floodplain boundaries, a Floodplain Development Permit be obtained;**
- 10. That the applicant adheres to all USFS regulations, including but not limited to: 1. Protect all posted corners, bearing trees and landline boundary markers (National Forest Service lands border the private property on the west and east sides); 2. No leach fields or septic systems to be located on National Forest Service lands; 3) No parking areas to be on National Forest Service lands; 4) Access to the private property will need to be from Private property; no FLPMA Private Road Easement will be authorized by the USFS; and,**
- 11. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as directed by the Pennington County Planning Commission to verify that all Conditions of Approval are being met.**

Vote: unanimous (5 to 0).

- 10. REZONE / RZ 14-03 AND COMPREHENSIVE PLAN AMENDMENT / CA 14-03: Lyle and Donna Hartshorn. To rezone 15.00 acres from Suburban Residential District to Limited Agriculture District and to amend the Pennington County Comprehensive Plan to change the Future Land Use from Suburban Residential District to Limited Agriculture District in accordance with Sections 206 and 508 of the Pennington County Zoning Ordinance.**

Tract D of NW1/4SE1/4 less Lot 1, Section 3, T1S, R7E, BHM, Pennington County, South Dakota.

To recommend approval of Rezone / RZ 14-03 and approval of Comprehensive Plan Amendment / CA 14-03.

Vote: unanimous (5 to 0).

END OF CONSENT CALENDAR

11. MINOR PLAT / PL 14-09 AND SUBDIVISION REGULATIONS VARIANCE / SV 14-04: Norris Peak Lodge LLC; Arleth Land Surveying – Agent. To create Lot 1A and Lot 1B of Van Vooren Subdivision and to waive platting requirements in accordance with Sections 400.3 and 700.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lot 1 of Van Vooren Subdivision, Section 31, T2N, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot 1A and Lot 1B of Van Vooren Subdivision, Section 31, T2N, R6E, BHM, Pennington County, South Dakota.

Zeller reviewed the Staff Report indicating the applicant has submitted a Minor Plat request to subdivide existing Lot 1 of Van Vooren Subdivision into proposed Lot 1A and Lot 1B of Van Vooren Subdivision. Proposed Lot 1A is to measure 2.71 acres and is currently vacant, while proposed Lot 1B is to measure 2.26 acres and contains the Norris Peak Lodge, a carport, and two on-site wastewater treatment systems. Portions of proposed Lot 1B are located on both the west and east sides of Norris Peak Road.

Zeller explained that the applicant is also requesting a Subdivision Regulations Variance to waive platting requirements, including: 1. Norris Peak Road improvements to Minor Arterial Road Design Standards for a Suburban Residential District, including a 32-foot-wide paved driving surface with curbs and sidewalks; 2. Engineered road construction plans for all required road improvements; 3. Dedication of eight (8) foot utility and minor drainage easement along the interior of proposed Lot 1B where existing structures are located; and, 4. Dedication of additional easement width and improvement of a 40-foot-wide access easement along the west boundary of proposed Lot 1B.

Staff recommended approval of a portion of Subdivision Regulations Variance 14-04 to waive dedication of eight (8) foot utility and minor drainage easements along the interior of proposed Lot 1B where existing structures are located and dedication of additional easement width and improvement of a 40-foot-wide access easement along the west boundary of proposed Lot 1B. Staff recommended denial of the portion of Subdivision

Regulations Variance 14-04 to waive road improvements for Norris Peak Road to Minor Arterial Road Design Standards for a Suburban Residential District and submittal of engineered road construction plans for the required road improvements.

Staff recommended approval of Minor Plat 14-09 with the following six (6) conditions:

1. That the wording “West of Road” and “East of Road” and associated acreages for proposed Lot 1B be removed from the plat;
2. That the property owner’s name be included on the ownership certificate on the plat;
3. That the note dedicating eight (8) foot utility and minor drainage easements along the interior of all lot lines on the plat be altered to exclude the dedication of these easements where the existing structures are located on the property;
4. That all National Forest System lands boundary markers be maintained, that no septic systems or parking be located on National Forest System lands, and that the provisions for the Norris Peak Road easement be adhered to in accordance with the comments provided by the U.S. Forest Service;
5. That a Setback Variance either be obtained to allow the existing carport to remain within the minimum eight (8) foot setback requirement on proposed Lot 1B, or else the lot lines will need to be reconfigured or an additional portion of the carport will need to be removed to meet the eight (8) foot setback requirement, prior to filing the plat at the Register of Deeds; and,
6. That Norris Peak Road be improved to Minor Arterial Road Design Standards for Suburban Residential District in accordance with Section 500.5-Table 1 of the Subdivision Regulations, including a 32-foot-wide paved driving surface with curbs and sidewalks, and that corresponding engineered road construction plans be provided or else an approved Subdivision Regulations Variance be obtained.

Chairman Zvejnieks questioned if the utility company is contacted, when staff is not requiring the dedication of an eight foot utility easement where structures are located.

Zeller commented that she has had several conversations with Black Hills Electric and they support waiving this requirement in these cases.

Commissioner Coleman spoke of the lodge located on proposed Lot 1B and expressed concern that it is located very close to Norris Peak Road and he also noticed that an unnamed creek runs through the property. He further spoke of seasonal runoff of water from this creek and what happens then when a residence is built on proposed Lot 1A and there are then drainage issues during a major weather event. He stated that it seems like a poor development choice for the landowner.

Zeller also expressed concern with increased runoff from building, but staff does not have a remedy for this that can be recommended in the Conditions of Approval.

Chairman Zvejnieks clarified that staff is recommending denial to waive the required road improvements to Norris Peak Road.

Zeller said yes, the Subdivision Regulations require this.

Chairman Zvejnieks stated that when the Planning Commission has the opportunity to require the recommended road widths, they should take action on this. He further discussed if a waiver can be granted.

Jennissen stated that, at this time, the Planning Commission cannot grant a waiver, but if the property is further subdivided in the future, this can be addressed again.

Commissioner Coleman commented that there should be a population density standard in place or standard of event that could be used to require road improvements.

Zeller noted this is a good discussion and hopes this will be addressed for future platting.

Discussion further followed on required road improvements, curb and gutter, and the possibility of adopting rural subdivision standards.

Mr. Frank DiCesare, Agent, from Arleth Land Surveying, appeared and spoke of the proposed application. He stated that the owner intends to build a residence on proposed Lot 1A and sell proposed Lot 1B in the future. He agreed that the need for the curb and gutter appears to be minimal and this is why the owner applied to waive platting requirements, since there will only be two lots created. Mr. DiCesare commented that the required road improvements appear to be an extensive requirement for this area for what the applicant wants to do.

Commissioner Coleman spoke again of the drainage for the area and the steep topography on the west side of the property. He expressed concern with building a structure on proposed Lot 1A and wondered if this will cause problems with the unnamed creek in the future.

Mr. DiCesare noted that he is not a hydrologist and cannot technically address the Planning Commission's concern with the unnamed creek and potential water runoff. He further stated the property is not located in a flood zone and it appears the water may flow out rather rapidly, not saying it might overflow on occasion, but it seems to flow well during a heavy storm.

Commissioner Coleman stated that he has never seen any water run on the road so far, during a storm event.

Mr. DiCesare said the future residence for proposed Lot 1A will be located up along the hillside.

Chairman Zvejnieks said it may increase the amount of runoff, based upon the increased footprint of the structure.

Mr. DiCesare indicated that a new driveway may increase runoff, but one is not being built at this time.

Moved by McCollam and seconded by Landers to approve of a portion of Subdivision Regulations Variance 14-04 to waive dedication of eight (8) foot utility and minor drainage easements along the interior of proposed Lot 1B where existing structures are located and dedication of additional easement width and improvement of a 40-foot-wide access easement along the west boundary of proposed Lot 1B; and denial of the portion of Subdivision Regulations Variance 14-04 to waive road improvements for Norris Peak Road to Minor Arterial Road Design Standards for a Suburban Residential District and submittal of engineered road construction plans for the required road improvements; and recommended approval of Minor Plat 14-09 with the following six (6) conditions:

- 1. That the wording “West of Road” and “East of Road” and associated acreages for proposed Lot 1B be removed from the plat;**
- 2. That the property owner’s name be included on the ownership certificate on the plat;**
- 3. That the note dedicating eight (8) foot utility and minor drainage easements along the interior of all lot lines on the plat be altered to exclude the dedication of these easements where the existing structures are located on the property;**
- 4. That all National Forest System lands boundary markers be maintained, that no septic systems or parking be located on National Forest System lands, and that the provisions for the Norris Peak Road easement be adhered to in accordance with the comments provided by the U.S. Forest Service;**
- 5. That a Setback Variance either be obtained to allow the existing carport to remain within the minimum eight (8) foot setback requirement on proposed Lot 1B, or else the lot lines will need to be reconfigured or an additional portion of the carport will need to be removed to meet the eight (8) foot setback requirement, prior to filing the plat at the Register of Deeds; and,**
- 6. That Norris Peak Road be improved to Minor Arterial Road Design Standards for Suburban Residential District in accordance with Section 500.5-Table 1 of the Subdivision Regulations, including a 32-foot-wide paved driving surface with curbs and sidewalks, and that corresponding engineered**

road construction plans be provided or else an approved Subdivision Regulations Variance be obtained.

All voting aye, the Motion carried 5 to 0.

12. PLANNING COMMISSION ITEMS TO ADDRESS

Jennissen reviewed the list of Planning Commission Items to Address.

Chairman Zvejnieks stated he would like to see Rural Road Development Standards to be a top priority.

Commissioner Litzen also noted that, according to her notes, the Water Quality Board was to also become a top priority. She had listed the Overlay Districts, One-Mile Jurisdiction, and Water Quality Board as top priorities.

Jennissen said the Water Quality Board can be moved to a top priority.

Commissioner Coleman asked if the timeframe listed means that this is when the specific item will be done by.

Jennissen said he would like to have it done by the timeframe listed by addressing each item through a Memo or having the specific item processed through an Ordinance Amendment and adopted within the timeframe listed.

Commissioner Coleman further asked if the items listed will be placed on upcoming Planning Commissioner Agendas.

Jennissen said yes.

Commissioner Coleman also clarified that the Planning Director will be presenting information for each item on the Agenda, so that the Planning Commission is able to make an informed decision.

Jennissen said yes, and further informed the Planning Commissioners that he will be absent the June 23rd meeting.

Commissioner McCollam questioned if the timeframes listed are what the Planning Director is stating when these items will be adopted and not just stating this is how long staff will be working on the item before it is presented to the Planning Commission and County Board.

Jennissen said yes.

Commissioner McCollam expressed concern with this, since staff does not have any control over duties and those deadlines that must be met.

Commissioner Coleman wanted to know how many items will be on each Agenda.

Jennissen said he could have the Vacation Home Rental Ordinance advertised with the changes and placed on the next scheduled Planning Commission meeting.

Commissioner Coleman asked about the On-Site Wastewater Treatment System Ordinance changes and wanted to know when this will be on the Agenda.

Jennissen stated this could also be advertised with the changes and placed on the next scheduled Planning Commission meeting.

Chairman Zvejnieks also spoke of the Notification to Renters.

Jennissen said this could be an informational item.

Commissioner Landers asked that those three items be on the Agenda for the June 23rd meeting.

Jennissen said he will be gone, but could have them on the July 14th meeting and clarified that he would add the Vacation Home Rental Ordinance, On-Site Wastewater Treatment System Ordinance, and Notification of Renters to that meeting. Jennissen said he would also have the advertisements done for Ordinance Amendments for the first two items.

Jennissen also stated he would send the recommended changes to the Planning Commission before the July 14th meeting, so that they can be reviewed.

13. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commission's recommendations from the May 27th Planning Commission meeting.

Jennissen reviewed the new definition of legal, non-conforming from the State's Attorney's Office regarding Mr. Donahue's Minor Plat and meeting the Conditions of Approval. Mr. Donahue had to apply for another Variance to reduce the side yard setback to zero, since Ms. Beverly Sears would not remove the outhouse structure encroaching over the lot line. Based upon the new definition, the Variance was then not needed for Mr. Donahue to proceed.

Discussion followed.

14. ITEMS FROM THE PUBLIC

There were no items from the public.

15. ITEMS FROM THE STAFF

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

16. ITEMS FROM THE MEMBERSHIP

There were no items from the membership.

17. ADJOURNMENT

Moved by Coleman and seconded by Litzen to adjourn.

All voting aye, the Motion carried 5 to 0.

The meeting adjourned at **9:51 a.m.**

Sig Zvejnieks, Chairperson