

**MINUTES**  
**PENNINGTON COUNTY PLANNING COMMISSION**  
**June 23, 2014 @ 9:00 a.m.**

County Commissioners' Meeting Room - Pennington County Courthouse

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

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

ROLL CALL

1. APPROVAL OF THE JUNE 9, 2014, MINUTES  
**Moved by Litzen and seconded by Landers to approve the minutes of the June 9, 2014, Planning Commission Meeting. Vote: unanimous (7 to 0).**
  
2. APPROVAL OF THE AGENDA  
**Moved by Hall and seconded by Litzen to approve the Agenda of the June 23, 2014, Planning Commission Meeting, including the Consent Calendar, with the removal of Item #9 and Item #13. Vote: unanimous (7 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. **ROAD NAMING:** John Boland. To name a 66-foot-wide access easement providing access to properties located in Section 25, T1S, R5E, and Section 31, T1S, R6E, BHM, Pennington County, to Trixie Lane.

**To recommend approval of the Road Naming of Trixie Lane.**

**Vote: unanimous (7 to 0).**

4. **ROAD NAMING:** Presidio Ranch Road. To name a 66-foot-wide National Forest System Road easement providing access to property located in Section 16, T2S, R6E, BHM, Pennington County, to Presidio Ranch Road.

**To recommend approval of the Road Naming of Presidio Ranch Road.**

**Vote: unanimous (7 to 0).**

5. **CONDITIONAL USE PERMIT REVIEW / CU 08-06:** Robert and Melody Riggins. To review a single-wide mobile home as a temporary residence while constructing a stick-built home in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

SW1/4SE1/4 of Section 12, T1N, R9E, BHM, Pennington County, South Dakota.

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

**To continue the review of Conditional Use Permit / CU 08-06 to the July 14, 2014, Planning Commission meeting.**

**Vote: unanimous (7 to 0).**

6. **CONDITIONAL USE PERMIT REVIEW / CU 12-16:** ARC Business Ventures/Penny and Jon Fosheim. To review a Vacation Home Rental in a Suburban Residential District in accordance with Sections 208, 319, and 510 of the Pennington County Zoning Ordinance.

Lots 30-32, Block 11, Silver City, Section 31, T2N, R5E, BHM, Pennington County, South Dakota.

(Continued from the April 28, 2014, Planning Commission meeting.)

**To approve of the extension of Conditional Use Permit / CU 12-16 with the following ten (10) conditions:**

1. **That the Vacation Home Rental be allowed a maximum occupancy of four (4) persons per night;**
2. **That a minimum of one (1) off-street parking spaces be provided and each parking space shall not be less than one hundred sixty two square feet, nor less than nine feet by eighteen feet, surfaced with gravel, concrete or asphalt and maintained in a dust free manner;**
3. **That the address be properly posted on both the residence and at the approach so it be visible in both directions in accordance with Pennington County's Ordinance #20;**
4. **That the applicants comply with South Dakota Administrative Rule 44:02:08, which regulates Vacation Home Rentals;**
5. **That the applicants maintain all the necessary permits from the State pertaining to the use of the Vacation Home Rental;**

6. That applicants comply with the Performance Standards outlined in Section 319 of the Zoning Ordinance, which regulates Vacation Home Rentals;
7. That records be kept by the owner or local contact for the off-site disposal of the holding tank contents, which shall include receipts with dates, times, contractor names, and disposal information;
8. That no parking be allowed in the 100 Block of Sherman Street;
9. That no open fires be allowed on the subject property; and,
10. That this Conditional Use Permit be reviewed in three (3) years, on a complaint basis, or as directed by the Planning Commission to verify that all conditions of approval are being met.

**Vote: unanimous (7 to 0).**

7. **CONDITIONAL USE PERMIT REVIEW / CU 12-17:** ARC Business Ventures/Penny and Jon Fosheim. To review a Vacation Home Rental in a Suburban Residential District in accordance with Sections 208, 319, and 510 of the Pennington County Zoning Ordinance.

Lots 1-3, Block 11, Silver City, Section 31, T2N, R5E, BHM, Pennington County, South Dakota.

(Continued from the April 28, 2014, Planning Commission meeting.)

**To approve of the extension of Conditional Use Permit / CU 12-17 with the following nine (9) conditions:**

1. That the Vacation Home Rental be allowed a maximum occupancy of eight (8) persons per night;
2. That a minimum of three (3) off-street parking spaces be provided and each parking space shall not be less than one hundred sixty two square feet, nor less than nine feet by eighteen feet, surfaced with gravel, concrete or asphalt and maintained in a dust free manner;
3. That the address be properly posted on both the residence and at the approach so it be visible in both directions in accordance with Pennington County's Ordinance #20;
4. That the applicants comply with South Dakota Administrative Rule 44:02:08, which regulates Vacation Home Rentals;

5. That the applicants maintain all the necessary permits from the State pertaining to the use of the Vacation Home Rental;
6. That applicants comply with the Performance Standards outlined in Section 319 of the Zoning Ordinance, which regulates Vacation Home Rentals;
7. That records be kept by the owner or local contact for the off-site disposal of the holding tank contents, which shall include receipts with dates, times, contractor names, and disposal information;
8. That no open fires be allowed on the subject property, when the Vacation Home Rental is being rented; and,
9. That this Conditional Use Permit be reviewed in three (3) years, on a complaint basis, or as directed by the Planning Commission to verify that all conditions of approval are being met.

**Vote: unanimous (7 to 0).**

8. **CONDITIONAL USE PERMIT REVIEW / CU 13-08:** Bill Whitney / Stanley Johnson Concrete; Larry and Lenora Ruland - Owners. To review a concrete batch plan and aggregate stock pile site in a General Agriculture District to work on the reconstruction project of I-90, east of Wall, in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

The SE1/4SW1/4; S1/2NE1/4SW1/4, Section 24, T1S, R16E, BHM, Pennington County, South Dakota.

**To approve of the extension of Conditional Use Permit / CU 13-08 with the following twelve (12) conditions:**

1. That a Building Permit be obtained for any structure exceeding 144 square feet or located on a permanent foundation, which requires a site plan to be reviewed and approved by the Planning Director;
2. That port-o-potties are provided on-site prior to the operation of the asphalt plant;
3. That the assigned address shall be posted on the office structure and a cell phone shall be present on the site at all times;
4. That the existing approach off of 239<sup>th</sup> Street be utilized;
5. That appropriate measures are taken to protect all drainage ways and limit runoff from the subject property by implementing proper BMPs prior to any land disturbance;

6. That all tailings, stockpiles and temporary offices be cleaned up and removed from the property upon the completion of the project;
7. That all necessary permits from the Department of Environment and Natural Resources be obtained;
8. That dust control measures be taken to reduce the amount of dust pollution produced by the project and insures that the parking areas are maintained in a dust free condition;
9. That erosion control measures be implemented and maintained and barrier protection measures (i.e. wattles, silt fence, etc.) be installed to prevent sediment from leaving the site;
10. That an Air Quality Permit be obtained from the South Dakota Department of Environment and Natural Resources. A copy of the Air Quality Permit shall be provided to the Planning Department prior to the operation of the concrete batch plant;
11. That prior to operation of the concrete batch plant, the applicant notify Emergency Services Communication Center; and,
12. That this Conditional Use Permit be reviewed on November 10, 2014, upon a complaint basis or as determined by the Planning Commission to determine that all conditions are being met.

**Vote: unanimous (7 to 0).**

10. **CONDITIONAL USE PERMIT REVIEW / CU 13-10:** Bruce and Sandra Rampelberg. To review a Vacation Home Rental in a Limited Agriculture District in accordance with Sections 206, 319, and 510 of the Pennington County Zoning Ordinance.

The E1/2N1/2N1/2SE1/4NW1/4, Section 15, T1S, R7E, BHM, Pennington County, South Dakota.

**To approve of the extension of Conditional Use Permit / CU 13-10 with the following seven (7) conditions:**

1. That the maximum overnight occupancy, based on DENR's approval, be limited to six (6) people and the maximum daytime occupancy be limited to nine (9) people;
2. That the applicant maintain 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 upon request;**

- 3. That a minimum of three (3) off-street parking spaces be provided on-site, each measuring a minimum of nine (9) feet 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 Neck Yoke Road, in accordance with Ordinance #20;**
- 6. That the applicant ensure the VHR is operated in accordance with the requirements of Section 319-F. (Performance Standards) at all times; and,**
- 7. That this Conditional Use Permit be reviewed in three (3) years or on a complaint basis to verify that all conditions of approval are being met.**

**Vote: unanimous (7 to 0).**

- 11. CONDITIONAL USE PERMIT REVIEW / CU 13-11: Sugar Daddy's / Kerri Johnston. To review an RV site on the subject property to be utilized on a part-time basis (weekends) in a Highway Service District in accordance with Sections 210 and 510 of the Pennington County Zoning Ordinance.**

Lot A of SE1/4SW1/4, Section 7, T2N, R5E, BHM, Pennington County, South Dakota.

**To approve of the extension of Conditional Use Permit / CU 13-11 with the following six (6) conditions:**

- 1. That the wastewater from the recreational vehicle be properly disposed of at all times;**
- 2. That the recreational vehicle not be utilized more than 180 days a year;**
- 3. That if any work is done within Zone A, a Floodplain Development Permit be obtained;**
- 4. That the RV not be located within the Section Line Right-of-Way;**
- 5. That a minimum of a 23 parking spaces be provided and be maintained in a dust free manner; and,**
- 6. That this Conditional Use Permit be reviewed in one (1) year or on a complaint basis to verify that all conditions of approval are being met.**

**Vote: unanimous (7 to 0).**

12. **CONDITIONAL USE PERMIT / CU 14-20:** Hillside Country Cabins/Randy and Val Lauen. 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, 312, and 510 of the Pennington County Zoning Ordinance.

Lot A of SW1/4SW14 less Right-of-Way, Section 22, T1S, R6E, BHM, Pennington County, South Dakota.

**To deny, without prejudice, Conditional Use Permit / CU 14-20 with the applicants' concurrence.**

**Vote: unanimous (7 to 0).**

## **END OF CONSENT CALENDAR**

9. **CONDITIONAL USE PERMIT REVIEW / CU 13-09:** Beverly Sears; Nate Oviatt – Agent. To review an accessory structure prior to a principal structure in a Suburban Residential District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance.

Lots 22-23, Block 8, Silver City, Section 31, T2N, R5E, BHM, Pennington County, South Dakota.

(Continued from the May 27, 2014, Planning Commission meeting.)

Commissioner Davis asked that this Item be removed from the Consent Calendar to discuss amending the language in Condition #1. He spoke of the previous approval of this application and stated that the structure should not be used as a rental and recommended Condition #1 includes this language.

Mr. Nate Oviatt, agent, appeared and stated the applicant did not have an objection to including this language in Condition #1.

**Moved by Davis and seconded by Hall to approve of the extension of Conditional Use Permit 13-09 with the following five (5) conditions:**

- 1. That the structure not be used as living quarters, sleeping quarters, or as a rental;**

2. **That a lot address be assigned for the property and the applicant post it so it is clearly visible from both directions of travel along Main Street in accordance with Pennington County Ordinance #20;**
3. **That if any plumbing is to be installed in the accessory structures, it be hooked into an approved means of wastewater disposal. If an on-site wastewater treatment system is to be installed, an approved On-Site Wastewater Construction Permit must be obtained;**
4. **That the applicant obtain any necessary Building Permits for the accessory structures or any structure larger than 144 square feet or permanently affixed to the ground, prior to construction; and,**
5. **That this Conditional Use Permit be reviewed in three (3) years, on a complaint basis, or as requested by the Pennington County Planning Commission to verify that all conditions of approval are being met.**

**All voting aye, the Motion carried 7 to 0.**

13. CONDITIONAL USE PERMIT / CU 14-21: Jeff and Sherry Liddell. To allow an accessory structure (barn) prior to a primary structure and to also allow an RV to be used as temporary living quarters during future construction of a single-family residence on the subject property in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

All of Sunrise Fraction Lode MS 531, Section 33, T1S, R5E, BHM, Pennington County, South Dakota.

Zeller stated that there are members of the public in attendance for this Item so that is why she asked to have it removed from the Consent Calendar.

Zeller reviewed the Staff Report indicating the applicants, Jeff and Sherry Liddell, are requesting a Conditional Use Permit to allow an accessory structure (barn) to be constructed prior to a primary structure (residence) being built on the subject property. In addition, the applicants are also requesting to be able to use a Recreational Vehicle (RV) as temporary living quarters during future construction of a single-family residence on the property.

Staff recommended approval of Conditional Use Permit #14-21 with the following seven (7) conditions:

1. That a lot address be assigned for the property and the applicant post it so it is clearly visible from both directions of travel along Twin Rocks Road in accordance with Pennington County Ordinance #20;
2. That the property be used for personal use only and no commercial-type uses;



3. That a Building Permit be obtained for the accessory structure prior to construction and an On-site Wastewater Construction Permit be obtained prior to installation of an on-site wastewater treatment system on the property;
4. That if any plumbing is to be installed in the accessory structure (barn), it be hooked into an approved means of wastewater disposal;
5. That the RV utilize an approved means of wastewater disposal either an on-site wastewater treatment system or the wastewater be contained and dumped at an approved site. In the case of the latter, the applicant must obtain written approval from the Environmental Planner and facility disposal receipts must be kept;
6. That the RV no longer be used as living quarters and permanently disconnected from the on-site wastewater treatment system upon completion of the single-family residence; and,
7. 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.

Chairman Zvejnieks questioned if there is a time limit for how long the RV can be used as living quarters, since some residences do not get finished within two years.

Zeller said there is not a specific time limit in the Zoning Ordinance for the RV. However, Building Permits do expire after two years and the applicants intend to start construction of the barn this summer and the single-family residence in the summer of 2015. She further explained that the Conditional Use Permit will also be reviewed in two years to make sure the applicants are meeting the Conditions of Approval.

Chairman Zvejnieks also clarified the Building Permit can be renewed.

Zeller explained that the initial Building Permit is in effect for two years and the applicants can reapply to extend it for one more year.

Commissioner Coleman wanted to know what the means of wastewater system will be for the property.

Zeller reviewed that the property is currently vacant and the applicants will be installing a system in the near future, along with the construction on the barn.

Mr. and Mrs. Roselles, neighboring landowners, appeared and spoke of the proposed application. Mr. Roselles stated that the questions asked by the Planning Commission addressed their concerns.

**Moved by Hall and seconded by McCollam to approve of Conditional Use Permit #14-21 with the following seven (7) conditions:**

1. That a lot address be assigned for the property and the applicant post it so it is clearly visible from both directions of travel along Twin Rocks Road in accordance with Pennington County Ordinance #20;
2. That the property be used for personal use only and no commercial-type uses;
3. That a Building Permit be obtained for the accessory structure prior to construction and an On-site Wastewater Construction Permit be obtained prior to installation of an on-site wastewater treatment system on the property;
4. That if any plumbing is to be installed in the accessory structure (barn), it be hooked into an approved means of wastewater disposal;
5. That the RV utilize an approved means of wastewater disposal either an on-site wastewater treatment system or the wastewater be contained and dumped at an approved site. In the case of the latter, the applicant must obtain written approval from the Environmental Planner and facility disposal receipts must be kept;
6. That the RV no longer be used as living quarters and permanently disconnected from the on-site wastewater treatment system upon completion of the single-family residence; and,
7. 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 7 to 0.**

14. 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 May 27, 2014, Planning Commission meeting.)

Zeller reviewed the Staff Report stating this item had been continued from the May 27, 2014, Planning Commission meeting in order for the applicant to address identified violations on the property. A letter was sent to the applicant identifying all of the structures that need to obtain Building Permits on March 6, 2014. Since that time, several Building Permits have been obtained for accessory structures located on the property although there are a few remaining structures which still need to be brought into compliance. Specifically, there are two carports that have not yet been permitted (4199

Elkhorn Lane and 3950 Elkhorn Lane), along with a shed and/or carport at 4015 Elkhorn Lane.

Zeller informed the Planning Commission that the reason the carports have not yet been permitted is due to an issue with the setback requirement to the neighboring structures. The applicant would like to discuss the setback requirements for carports from neighboring trailers. Condition #4 of this Conditional Use Permit states “that a minimum 20 foot separation between *units* be maintained.” The applicant would also like clarification if *units* include all accessory structures or just the homes themselves. The carports are located approximately 12 feet and 16 feet from the neighboring homes.

Staff recommended the review of Conditional Use Permit 99-37 be continued to the July 14, 2014, Planning Commission meeting in order for the applicant to resolve any remaining Violations on the property.

Commissioner Litzen wanted to know if the carport(s) can be moved easily by the renter.

Zeller said she didn’t know that, but Mr. Young could possibly provide more information about the structures.

Commissioner Litzen also commented that the property owner should have policies in place that would let renters know when Building Permits are required, so that this situation does not keep happening.

Commissioner Coleman wanted to know who is responsible for the sheds and carports.

Zeller explained that the property owner is ultimately responsible.

Commissioner McCollam asked if the carport(s) are located on a permanent foundation.

Mr. Bob Young, property owner of D & J Mobile Estates, appeared and stated that the carport located at 4199 Elk Horn Lane has been cemented in. He addressed concerns of the Planning Commission and stated that the carport at 3950 Elkhorn Lane used to be located in front of the double-wide mobile home but was sold to a new property owner and they moved it to the north side of the mobile home. Mr. Young further stated that when he measured from the northwest corner of the carport to the residence to the north, the distance was 16 feet. He also stated that when you park a car in this carport and the carport is 24 foot long, which then gives you 4 feet in the front and 4 feet in the back, so he believes the carport is located over 20 feet away from the neighbor’s trailer.

Chairman Zvejnieks noted that the 20 foot separation distance is for the structures and not for the car parked inside of the carport.

Commissioner Davis asked if setbacks distances are required for mobile home parks.

Zeller advised that Section 305 “Mobile Home Parks” states that the minimum distance between units shall be 20 feet.

Commissioner Davis stated that “units” to him is the distance between the mobile homes and not the garage or carport; it’s between the living units.

Zeller noted that this is why this is being discussed today to get some direction from the Planning Commission.

Discussion followed on setback distances between structures in mobile home parks.

Moved by Landers that a “unit” be considered the living quarters for this Conditional Use Permit, until the word “unit” is defined in the Zoning Ordinance.

Chairman Zvejnieks expressed concern and noted that some accessory structures are made of wood and with the motion in place; there would then be a zero foot setback with the potential for fire jumping between structures. He also spoke of wind coming through this mobile home park and grabbing the carports and the closer they are located together, the more damage other structures could receive.

Mr. Young stated that he would like to keep the 20 foot separation distance for wooden structures.

Motion by Landers died for lack of a Second.

Commissioner McCollam suggested that an 8 foot separation distance be maintained between accessory structures and to develop a standard for these.

Commissioner Davis asked Mr. Patrick Grode to define what a “unit” is.

Mr. Patrick Grode, Deputy State’s Attorney, appeared, and stated that a “unit,” in his opinion, is the living space (the mobile home) and not the accessory structure. He noted that the Planning Commission can also include a condition in the Conditions of Approval indicating that a setback distance is maintained for accessory structures.

Mr. Young indicated that he will be sending a letter to all of the units in the mobile home park explaining to them the setback distances to maintain for any improvements.

**Motion on “Unit”: Moved by McCollam and seconded by Coleman that the definition of a “unit” is considered a living space (living quarters).**

Zeller noted that the direction she is getting from the Planning Commission is to issue the Building Permits for the two carports and then review what other counties have for separation distances in other mobile home parks. Then a condition could possibly be added to address setback distances for accessory structures at the next review of this Conditional Use Permit.

Commissioner Litzen suggested amending Section 305 in the Zoning Ordinance to address setback distances for accessory structures in all mobile home parks.

**All voting aye, the Motion for “Unit” carried 7 to 0.**

**Moved by Hall and seconded by Landers to continue to the review of Conditional Use Permit 99-37 to the July 14, 2014, Planning Commission meeting.**

**All voting aye, the Motion carried 7 to 0.**

15. CONDITIONAL USE PERMIT REVIEW / CU 10-30: Janell Gibson; David and Maria Eisenbraun – Owners. To review the operation of a dog and cat kennel/breeding facility in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

The S1/2NE1/4, E1/2SW1/4, SE1/4; Rainy Creek Cheyenne Township #19, Section 33, T4N, R16E, BHM, Pennington County, South Dakota.

(Continued from the May 27, 2014, Planning Commission meeting.)

Zeller reviewed that this item had been continued from the May 27, 2014, Planning Commission meeting in order for staff to perform a site visit to view that the applicant is meeting Condition #1 (the number of animals allowed) and also for the applicant to obtain approval of a Kennel License from the Human Society of the Black Hills.

Zeller explained that staff performed a site visit to the subject property on June 18, 2014, along with the County Ordinance Enforcement Officer. Staff counted 52 animals (50 dogs and 2 cats) in the barn, though the applicant indicated there were six (6) more dogs in the residence for a total of 58 animals altogether. All of the animals appeared healthy and to be adequately fed and watered, though a few of the animals do not have full-time access to water. Ms. Gibson indicated this was due to an issue with it constantly being spilled and that the animals are watered both in the morning and at night. She is also looking into a solution to resolve this with some type of watering system other than bowls.

Zeller noted that, although there is no requirement in the Zoning Ordinance for the amount of area that each animal must be provided, there are multiple dogs kept in small kennel areas that staff feels ideally would be given more room to inhabit. Specifically, there are, in some cases, three (3) to four (4) large dogs kept in kennels approximately 32 square feet in area. Nonetheless, the animals all appeared healthy and well taken care of and Ms. Gibson indicated the dogs are regularly let out into a dog run area or are run with a four-wheeler. Furthermore, there was a strong smell in the barn, but not beyond what would be expected for a kennel facility. Also, the kennels did appear to be clean as there was no evidence of waste in any of the kennels and the applicant stated the kennels are cleaned twice a day.

Zeller further explained that staff had originally recommended approval of this Conditional Use Permit with another review in one year, but is now recommending the item be continued to the July 14, 2014, Planning Commission meeting in order for staff to clear up what the follow up is on this item with the Sheriff's Department, based on a site visit performed by a Sheriff's Deputy to the property in May at the request of the Humane Society.

Chairman Zvejnieks asked Mr. Grode if there is any recourse with other agencies in handling this matter.

Mr. Grode stated there are State Statutes to deal with inhumane treatment of animals. If there is an issue, the appropriate agencies have already been informed. He also suggested that, if the Planning Commission decides not to extend this Conditional Use Permit, the Motion be linked with the five items in considering approval of Conditional Use Permits.

Commissioner Coleman commented that a Conditional Use Permit such as this should not be issued in the first place, since the Planning Commission is not able to revoke or regulate the way animals are treated. The Planning Commission has no power to regulate this in any meaningful way; the County has to rely on state or county authorities.

Commissioner Litzen asked if this can be addressed as a nuisance.

Mr. Grode said the nuisance would need to impact neighboring properties.

Discussion followed.

Moved by Litzen and seconded by McCollam to approve of the extension of Conditional Use Permit 10-30.

Chairman Zvejnieks questioned whether the Planning Commission should approve any Conditional Use if it is an illegal operation and that's what the Planning Commission doesn't know at this point. He would like to give staff more time to find out more information to get some questions answered before approving this item and he would like to see this item be continued.

Commissioner Landers said the application's application is legal, since all the licenses have been approved.

Commissioner Coleman noted that the Planning Commission does not know this and if there is a violation of animal abuse law through state statutes, staff needs to obtain more information prior to approving.

Zeller said she would like to see what the Human Society enforces and what state statutes are, as well as follow-up with the Sheriff's Department, and have this item be continued to address those concerns.

**SUBSTITUTE MOTION: Moved by Litzen and seconded by Coleman to continue the review of Conditional Use Permit 10-30 to the July 14, 2014, Planning Commission meeting.**

**All voting aye, the Motion carried 7 to 0.**

16. LAYOUT PLAT / PL 14-10: Louis and Carol Torres; John Preston – Agent. To create Lots 2A, 2B, and 2C of Battle Creek Mountain Estates Subdivision in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lot 2 less Lot H-1, Battle Creek Mountain Estates Subdivision, Section 17, T2S, R7E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots 2A, 2B, and 2C of Battle Creek Mountain Estates Subdivision, Section 17, T2S, R7E, BHM, Pennington County, South Dakota.

Conover reviewed the Staff Report indicating the applicants have applied for a Layout Plat to create to create Lots 2A, 2B, and 2C of Battle Creek Mountain Estates Subdivision.

Conover stated staff performed a site visit to the subject property on June 11, 2014. The property currently consists of a single-family residence constructed on the property in 1923 and a storage building constructed on the property in 1955. In 2002, the Battle Creek Fire burned the area of most of the trees. Access to the proposed lots is directly off of Highway 40. The proposed plat shows a 110 foot diameter cul-de-sac at the entrance of the development. Also, access to proposed lot 2C is proposed to be a 40-foot-wide private access easement. Section 500.5-1-a-3-a states that the width of the access easement is a minimum of 40 feet in width and shall serve a maximum of two lots in Low Density Residential District and the minimum driving surface width is not specified.

Conover noted that the County Highway Department recommended that a turnaround or cul-de-sac shall be located at the end of the access easement. However, the Subdivision Regulations do not require any improvements to the access easement because it only provides access to two lots. The cul-de-sac does need to be improved to Local Road Standards which would require 96-foot-wide cul-de-sac with a minimum of four inches of gravel. The applicant also has the option of applying for a Subdivision Regulations Variance waiving the improvements. Staff also cannot require the cul-de-sac to be located at the end of the easement as it would be acting as a driveway to the two lots. Staff suggests that a turn-around be provided for emergency vehicles.

Conover also stated the County Fire Coordinator recommended there be an adequate area to allow emergency vehicles to turn around at the north end of the private access easement, such as a cul-de-sac or hammerhead “T”.

Staff recommended approval of Layout Plat / PL 14-10 with the following eight (8) conditions:

1. That at the time of Minor Plat submittal, the applicant submits percolation tests and soil profile information for the two undeveloped lots to be reviewed and approved by the Environmental Planner or obtain approval of a Subdivision Regulations Variance waiving this requirement;
2. That eight (8) foot utility and minor drainage easements be dedicated on the interior sides of all lot lines or an approved Subdivision Regulations Variance be obtained waiving this requirement;
3. That the 40 foot access easement also be an access and utility easement;
4. That at the time of the Minor Plat application, the applicant submit engineered road construction plans for the cul-de-sac or obtain a Subdivision Regulations Variance waiving this requirement;
5. That the cul-de-sac be improved to a 96 foot wide cul-de-sac with a minimum of four inches of gravel or obtain a Subdivision Regulations Variance waiving this requirement;
6. That at the time of submittal of the Minor Plat, the applicant submit topography for the area or obtain a Subdivision Regulations Variance waiving this requirement;
7. That prior to Minor Plat approval, an Operating Permit be obtained for the existing on-site wastewater treatment system, and,
8. That approval of this Layout Plat does not constitute approval of any further applications to be submitted for the above-described property.

Mr. John Preston, agent, appeared and spoke of the proposed application. He discussed the Fire Coordinator's comments and requested that they be able to place a hammerhead "T" turnaround at the north end of the access easement instead of the 96-foot-wide cul-de-sac with the four inches of gravel.

Chairman Zvejnieks noted that this is a request from other departments, but not required of the applicants.

Mr. Preston agreed to move the turnaround to the end of the easement, if the cul-de-sac could be removed and asked if it could be a hammerhead "T" instead.

Zeller stated a hammerhead "T" is allowed as a turnaround, according to the Subdivision Regulations.



Mr. Preston asked if the hammerhead “T” needs to be engineered.

Zeller commented that the access easement is not required to be improved so engineered road plans would not be required for the turnaround.

Chairman Zvejnieks asked if the applicants intended to have a cul-de-sac at the beginning of the road to keep the public from going up the private drive.

Zeller said the private access easement will not be a named road at this time, so the public shouldn't be using this road.

Discussion followed.

Moved by Hall and seconded by Litzen to amend Condition #4 to start after the word plans “for the first 55 feet of road, which provides access to all three lots, etc.” and eliminate Condition #5.

Zeller recommended that a condition still needs to state what standard the roads needs to be improved to, so Condition #5 needs to state: “That the first 55 feet of road be improved to Local Road Standards with a minimum of four inches of gravel or obtain a Subdivision Regulations Variance waiving this requirement.”

**SUBSTITUTE MOTION: Move by Hall and seconded by Litzen to approve of Layout Plat / PL 14-10 with the following eight (8) conditions:**

- 1. That at the time of Minor Plat submittal, the applicant submits percolation tests and soil profile information for the two undeveloped lots to be reviewed and approved by the Environmental Planner or obtain approval of a Subdivision Regulations Variance waiving this requirement;**
- 2. That eight (8) foot utility and minor drainage easements be dedicated on the interior sides of all lot lines or an approved Subdivision Regulations Variance be obtained waiving this requirement;**
- 3. That the 40 foot access easement also be an access and utility easement;**
- 4. That at the time of the Minor Plat application, the applicant submit engineered road construction plans for the first 55 feet of road, which provides access to all three lots, or obtain approval of Subdivision Regulations Variance waiving this requirement;**
- 5. That the first 55 feet of road be improved to Local Road Standards with a minimum of four inches of gravel or obtain approval of a Subdivision Regulations Variance waiving this requirement;**

6. That at the time of submittal of the Minor Plat, the applicant submit topography for the area or obtain approval of Subdivision Regulations Variance waiving this requirement;
7. That prior to Minor Plat approval, an Operating Permit be obtained for the existing on-site wastewater treatment system, and,
8. That approval of this Layout Plat does not constitute approval of any further applications to be submitted for the above-described property.

**All voting aye, the Motion carried 7 to 0.**

17. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commission's recommendations from the June 9, 2014, Planning Commission meeting, with the exception of Minor Plat 14-09 and Subdivision Regulations Variance 14-04 (Norris Peak Lodge). These two applications were continued to the July 1, 2014, Board of Commissioners' meeting, at the request of the applicant, so that their Variance Application is heard at the same time as the Minor Plat and Subdivision Regulations Variance requests.

18. ITEMS FROM THE PUBLIC

Commissioner Davis stated that on July 2<sup>nd</sup> the Tops in Blue from the Air Force will be performing a free concert at the Rushmore Plaza Civic Center.

19. ITEMS FROM THE STAFF

There were no items from staff.

20. ITEMS FROM THE MEMBERSHIP

There were no items from the membership.

21. ADJOURNMENT

**Moved by Davis and seconded by Coleman to adjourn.**

**All voting aye, the Motion carried 7 to 0.**

The meeting adjourned at **10:34 a.m.**

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Sig Zvejnieks, Chairperson