

MINUTES
PENNINGTON COUNTY PLANNING COMMISSION
July 14, 2014 @ 9:00 a.m.

County Commissioners' Meeting Room - Pennington County Courthouse

MEMBERS PRESENT: Karen Hall, Lori Litzen, Bill McCollam, Barbara Landers, and Lyndell Petersen.

STAFF PRESENT: Dan Jennissen, Lysann Zeller, PJ Conover, Jeri Ervin, Brittney Molitor, Kelsey Rausch, Patrick Grode (SAO), and Kinsley Groote (SAO).

ROLL CALL

1. APPROVAL OF THE JUNE 23, 2014, MINUTES
Moved by Hall and seconded by Landers to approve the minutes of the June 23, 2014, Planning Commission Meeting. Vote: unanimous (5 to 0).

2. APPROVAL OF THE AGENDA
Moved by McCollam and seconded by Hall to approve the Agenda of the July 14, 2014, Planning Commission Meeting, including the Consent Calendar, with the removal of Items #10, #12, and #14. 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. **CONSTRUCTION PERMIT REVIEW / CP 05-11:** Pete Lien & Sons. To review the extension of a Construction Permit for reclamation of the quarry located on the subject property in a General Agriculture District in accordance with Section 507 of the Pennington County Zoning Ordinance.

A portion of the NE1/4 of Section 20 and a portion of the NW1/4 of Section 21, T2N, R7E, BHM, Pennington County, South Dakota.

To approve of the extension of Construction Permit / CP 05-11 with the following ten (10) conditions:

1. **That the conditions of the approval of the South Dakota Department of Environment and Natural Resources General Permit for Storm Water**

Discharges Associated with Industrial Activities (SDR00A061) be continually met;

- 2. That the applicant continually maintains and adheres to the Storm Water Pollution Prevention Plan during reclamation;**
- 3. That the conditions of approval of the South Dakota Department of Environment and Natural Resources Title V Air Quality Permit (28.1143-02) be continually met;**
- 4. That any natural drainage ways and paths be continually maintained and culverts added as necessary, in accordance with Pennington County Ordinance #14;**
- 5. That prior to start of any surface disturbance, any required permits from the Rapid City Community Development Department be obtained;**
- 6. That the applicant continues to use the existing approach from Universal Drive to access the site;**
- 7. That the rubble be limited to clean concrete debris, unless approval from the South Dakota Department Environment and Natural Resources is obtained and a copy of the document is provided to the Pennington County Planning and Zoning Department;**
- 8. That the applicant continually maintain all required permits allowing for the use of clean fill and rubble with the South Dakota Department of Environment and Natural Resources;**
- 9. That the site shall be revegetated as required in Section 507-A(5)(c); and,**
- 10. That this Construction Permit be reviewed in two (2) years or upon a complaint basis.**

Vote: unanimous (5 to 0).

- 4. CONSTRUCTION PERMIT / CP 14-04: Rapid Construction, LLC. To develop 31 lots in Trailwood Village Subdivision, to include mass grading, sewer, and water line installation, curb and gutter, and pavement installation in accordance with Section 507 of the Pennington County Zoning Ordinance.**

Balance of Tract T less Lot H-1, Section 10, T1N, R8E, BHM, Pennington County, South Dakota.

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

1. That the conditions of the approval of the South Dakota Department of Environment and Natural Resources General Permit for Storm Water Discharges Associated with Industrial Activities (SDR00A061) be continually met;
2. That the applicant submits a copy of the Storm Water Pollution Prevention Plan to Pennington County prior to any disturbance on the property;
3. That the applicant continually maintains and adheres to the Storm Water Pollution Prevention Plan during the period of construction;
4. That conditions of approval of the City of Rapid City's Air Quality Permit be continually met;
5. That the contractor ensures that sediment does not enter the Hawthorne Ditch during construction;
6. That access is maintained to the Hawthorne Ditch during and after the period of construction;
7. That the applicant follow the City Construction Plans (#14PL006) and provide proper flows, post street signs, and have adequate street widths for emergency vehicles;
8. That the site shall be revegetated as required in Section 507-A(5)(c);
9. That the applicant sign a Statement of Understanding prior to commencement of the construction activities; and,
10. That this Construction Permit expires in one (1) year from the approval date.

Vote: unanimous (5 to 0).

5. **MINING PERMIT / MP 14-05:** Western Construction; Charles Boydston – Owner. To excavate and extract gravel on the subject property and to maintain roads in the area in a General Agriculture District in accordance with Sections 205 and 507 of the Pennington County Zoning Ordinance.

W1/2 of SW1/4, Section 21, T2N, R11E, BHM, Pennington County, South Dakota.

To approve of Mining Permit / MP 14-05 with the following eight (8) conditions:

1. That the conditions of the approval of the South Dakota Department of Environment and Natural Resources General Permit for Storm Water

Discharges Associated with Industrial Activities (SDG05A185) be continually met;

- 2. That the applicant continually maintains and adheres to the Storm Water Pollution Prevention Plan during the Mining Activity;**
- 3. That the conditions of approval of the South Dakota Department of Environment and Natural Resources Mining & Minerals Permits (09-880) be continually met;**
- 4. That the applicant submit a copy of the annual Mine License Report and a copy of the Mine License to the Planning Department when it is renewed;**
- 5. That any natural drainage ways and paths be continually maintained and culverts added as necessary, in accordance with Pennington County Ordinance #14;**
- 6. That an address be posted in large numbers at the entrance to the pit in accordance with Ordinance #20;**
- 7. That the site shall be revegetated as required in Section 507-A(5)(c); and,**
- 8. That this Mining Permit be reviewed in one (1) year or upon a complaint basis.**

Vote: unanimous (5 to 0).

- 6. 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.

(Continued from the June 9, 2014, Planning Commission meeting.)

To approve of the extension of Conditional Use Permit / CU 01-18 with the following ten (10) conditions:

- 1. That a maximum of six people, including both guests and residents, be allowed to stay at the bed and breakfast establishment;**
- 2. That the business be conducted by members of the family residing on the premises and no more than one additional person;**

3. That AC and battery operated smoke detectors be installed in all sleeping rooms and common hallways and tested semi-annually as requested by the Pennington County Fire Coordinator;
4. That a 2-ABC dry chemical fire extinguisher be accessible to all guests at all times as requested by the Pennington County Fire Coordinator;
5. That a minimum of six (6) off-street parking spaces be provided and that 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 such a manner that no dust will result from continuous use;
6. That the applicant provides proof that the bed and breakfast be registered with the South Dakota Department of Health;
7. That the applicant provides proof of a Sales Tax License as required by the South Dakota Department of Revenue;
8. 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 closer than seventeen feet to the nearest street right-of-way line;
9. That an address be posted on the residence in accordance with Ordinance #20; and,
10. That this Conditional Use Permit be reviewed in two (2) years or on a complaint basis.

Vote: unanimous (5 to 0).

7. **CONDITIONAL USE PERMIT REVIEW / CU 07-43:** Carson Aasen. To review a 150 foot radio antenna and transmission building in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

The SE1/4 of the NE1/4 of Section 2, T1N, R8E, BHM, Pennington County, South Dakota.

To approve of the extension of Conditional Use Permit / CU 07-43 with the following fifteen (15) conditions:

1. That an address be assigned to the radio tower site and be posted both at the site itself and at the entrance to the property in accordance with Ordinance #20;
2. That Building Permits be obtained for any structure exceeding 144 square feet and located on a permanent foundation, which include necessary site plans to be reviewed and approved by the Planning Director;
3. That a Building Permit is obtained for the installation of the tower and equipment building to be reviewed and approved by the Planning Director;
4. That a professional engineer certify the structural integrity of the tower and anchoring system prior to the issuance of an approved Building Permit;
5. 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;
6. That a security fence, measuring at least seven (7) feet in height, be installed and maintained around the radio tower and transmission building;
7. That emergency radio communication equipment be allowed on the tower, if it does not interfere with the applicant's broadcast equipment;
8. That all existing drainage ways be maintained and the applicant ensures they are not blocked;
9. That the radio tower not exceed 150 feet in height;
10. That proper setbacks be maintained for all structures located on the property including a minimum of 25 feet from all property lines and a minimum of 58 feet from any Section Lines or else an approved Setback Variance be obtained;
11. That the applicant maintains compliance with any Federal, State or County regulations for the radio tower;
12. That the applicant utilizes the existing Section Lines for legal access to the property or else establishes access easements with the owners of the surrounding property. If the applicant were to make any improvements to any Section Line, depending on the location of the subject Section Lines, the applicant either submit an application to Open the Section Line with Pennington County or else work with either the City of Box Elder or the City of Rapid City to obtain their approval for any Section Line improvements;

13. That the approval of this Conditional Use Permit and the proposed use only be allowed on the specific 40-acre tract to be deeded off and purchased by the applicant (The SE¹/₄ of the NE¹/₄, Section 2, T1N, R8E, BHM, Pennington County, South Dakota);
14. That any future additions of equipment to the site or tower require this Conditional Use Permit to be reviewed by the Pennington County Planning Department; and,
15. That this Conditional Use Permit be reviewed in four (4) years or on a complaint basis to determine that all conditions are being met.

Vote: unanimous (5 to 0).

8. **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 June 23, 2014, Planning Commission meeting.)

To revoke Conditional Use Permit / CU 08-06 with the applicants' concurrence.

Vote: unanimous (5 to 0).

9. **CONDITIONAL USE PERMIT REVIEW / CU 08-20:** David and Karen Maudlin. To review a Bed and Breakfast as a home occupation in a Low Density Residential District in accordance with Sections 207 and 510 of the Pennington County Zoning Ordinance.

Lot 3 (also in Section 3, T2S, R5E), Turbo Subdivision, Section 34, T1S, R5E, BHM, Pennington County, South Dakota.

To approve of the extension of Conditional Use Permit / CU 08-20 with seventeen (17) conditions:

1. That no new approaches or access points be created off of Old Hill City Road;
2. That a minimum of five (5) off-street parking spaces be provided and that 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 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;
4. That the applicants ensure the residential character of the property is maintained;
5. That the maximum number of people staying at the bed and breakfast establishment at one (1) time be in compliance with the South Dakota Lodging Establishments Health and Safety Manual;
6. That the home occupation be conducted by members of the family residing on the premises and no more than one (1) additional person;
7. That all natural drainage paths are maintained;
8. 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;
9. That any updates to the existing septic system be approved by both the South Dakota Department of Environment and Natural Resources and the Pennington County Planning Office and the applicant obtain an approved On-site Wastewater Construction Permit prior to any changes occurring to the existing system;
10. That the address be properly posted on both the residence and at the approach so it be visible from Devin Court in accordance with Pennington County's Ordinance #20;
11. 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;
12. That the bed and breakfast be continually registered with the South Dakota Department of Health;
13. That a Sales Tax License be maintained as required by the South Dakota Department of Revenue;
14. That smoke detectors be placed in each sleeping room with a minimum of at least one (1) smoke detector per floor;

15. That a minimum of one (1) 2 A-BC dry chemical fire extinguisher be accessible to all guests at all times on each floor of the structure;
16. That the physical address for the residence be posted in each guest room; and,
17. That this Conditional Use Permit be reviewed in four (4) years or on a complaint basis to verify that all conditions of approval are being met.

Vote: unanimous (5 to 0).

11. **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 June 23, 2014, Planning Commission meeting.)

To approve of the extension of Conditional Use Permit / CU 99-37 with twenty (20) conditions:

1. That the mobile home park has a maximum of 41 mobile home spaces with one of the lots acting as the caretaker's or manager's residence;
2. That each mobile home space be allowed one mobile home, manufactured home or modular home;
3. That each mobile home be allowed decks and each mobile home space be allowed accessory structures with the issuance of an approved Building Permit;
4. That a minimum 20 foot separation between units (mobile home living space, including attached decks) be maintained;
5. That a minimum 10 foot separation between accessory structures (e.g. carports, sheds) and mobile homes on adjacent lots be maintained;
6. That a minimum 42 foot setback be maintained from Country Road to ensure adequate right-of-way for future improvements on Country Road;
7. That a minimum front yard setback of ten (10) feet be maintained from all access roads within the mobile home park;
8. That a minimum rear and side yard setback on all sides of the property of not less than ten (10) feet be maintained;

9. That each mobile home space have a minimum of two (2) off-street parking spaces, and that each parking space shall not be less than one hundred sixty two (162) square feet, nor nine (9) feet by eighteen (18) feet, surfaced with gravel, concrete or asphalt and maintained in such a manner that no dust will result from continuous use;
10. That a minimum of eleven (11) visitor parking spaces be provided. Each space shall measure a minimum of 9 feet by 18 feet, be surfaced in gravel, concrete or asphalt and maintained in a dust free manner;
11. That the first 100 feet of the western interior roadway continue to be maintained with a chip seal surface at a minimum of 25 feet in width;
12. That the interior roads be maintained in a dust free manner;
13. That a stop sign be continually posted at the east intersection where the looped interior road and Country Road intersect;
14. That all lot addresses be posted property so they are clearly visible from Elkhorn Lane in accordance with Pennington County's Ordinance #20;
15. That a Building Permit shall be obtained for the removal or placement of mobile homes on the property;
16. That a Building Permit be obtained for any structure exceeding 144 square feet or located on a permanent foundation, which will require a site plan to be reviewed by the Planning Director;
17. That the mobile home park be provided with an on-site management office;
18. That the property remain free of debris and no inoperable of junk vehicles be allowed on the property;
19. That the use of the property be in compliance with all local, state, and federal regulations; and,
20. That this Conditional Use Permit be reviewed in two (2) years or on a complaint basis to determine that all conditions of approval are being met.

Vote: unanimous (5 to 0).

13. **CONDITIONAL USE PERMIT / CU 14-22:** Gaslight Restaurant; Linda Zwetzig – Agent. 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 1 Revised, Rockerville Ghost Town Subdivision, Section 13, T1S, R6E, BHM, Pennington County, South Dakota.

To approve of Conditional Use Permit / CU 14-22 with six (6) 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 conform to all regulations in Section 312 of the Pennington County Zoning Ordinance;**
- 3. That the sign be maintained so as to have an aesthetically pleasing appearance at all times and not appear dilapidated;**
- 4. That installation of any other on-premise signs on the property requires a separate Sign Permit to be obtained and if they are to be illuminated, this Conditional Use Permit be amended;**
- 5. That the sign not contain, include, or be illuminated by any flashing or intermittent (less than six seconds) moving lights; 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).

- 15. MINOR PLAT / PL 14-13: Dakota Land & Cattle Company, LLC. To combine two lots to create Lot 5R, Block 11, The Ranch at Black Gap in accordance with Section 400.3 of the Pennington County Subdivision Regulations.**

EXISTING LEGAL: Lot 5 and Lot 6, Block 11, The Ranch at Black Gap, Section 9, T1S, R8E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot 5R, Block 11, The Ranch at Black Gap, Section 9, T1S, R8E, BHM, Pennington County, South Dakota.

To recommend approval of Minor Plat / PL 14-13 with three (3) conditions:

- 1. That prior to filing the plat with the Register of Deeds, the applicant have the eight (8) foot wide utility and minor drainage easement vacation note changed from, "8" wide utility and minor drainage easement to be vacated**

this plat” to read “8’ wide utility and minor drainage easements to be vacated this plat;

- 2. That prior to filing the plat with the Register of Deeds, the applicant provide written documentation from all the affected utility companies indicating concurrence with the Vacation request of the eight (8) foot wide minor drainage and utility easements on the proposed plat to the Pennington County Planning Department; and,**
- 3. That prior to filing with the Register of Deeds, the Certificate of Planning Director for Pennington County be removed or crossed off the plat document.**

Vote: unanimous (5 to 0).

END OF CONSENT CALENDAR

10. 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 June 9, 2014, Planning Commission meeting.)

Commissioner Hall asked to have this Item removed from the Consent Calendar to discuss the carport that had not been permitted yet and also the recommended continuance of this item. She questioned if staff can implement a deadline for when the Building Permit is applied for and when the other mobile home is removed from the property, since this item has been continued numerous times in the past year.

Jennissen stated that a deadline can be given to the applicant for obtaining a Building Permit and then turned over to the State’s Attorney’s Office for legal action, if the deadline is not met.

Commissioner Hall asked that this deadline be put in writing and incorporated with the motion.

Jennissen said that this can be included in the motion that, if a Building Permit is not obtained in two weeks, the item will be turned over to the State’s Attorney’s Office.

Jennissen further stated the Motion could read: “That a Building Permit needs to be obtained in two weeks or the item will be turned over to the State’s Attorney’s Office.”

Moved by Hall and seconded by Landers that a Building Permit shall be obtained in two weeks or the item will be turned over to the State’s Attorney’s Office.

Discussion followed.

SUBSTITUTE MOTION: Moved by Hall and seconded by Landers that a Building Permit shall be obtained in two weeks for the carport or the item will be turned over to the State’s Attorney’s Office and to also continue the review of Planned Unit Development / PU 06-07 to the October 27, 2014, Planning Commission meeting.

All voting aye, the Motion carried 5 to 0.

12. 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 June 23, 2014, Planning Commission meeting.)

Commissioner Hall asked to have this Item removed from the Consent Calendar to discuss Ms. Sabin’s (Animal Control Officer) comments and she further wanted to know if there is any recourse the Planning Commission has or who governs the living conditions of the animals.

Zeller explained that apparently no one governs the living conditions of the animals, such as square footage living area for each animal or how much time they spend outdoors, etc. However, according to Ms. Sabin, by state law the animals are required to have access to shelter, food, and water at all times.

Commissioner Hall questioned what laws or regulations the Humane Society uses to issue Kennel Licenses.

Zeller stated that she is unsure of what regulations exactly the applicant must meet in order to obtain a Kennel License from the Humane Society.

Commissioner Hall asked if there are any policies in the County’s Zoning Ordinance or Nuisance Ordinance to address these situations.

Zeller noted that there are no regulations in either of these Ordinances for the Planning Department to govern the specific living conditions of the animals.

Moved by Hall and seconded by Landers to approve of the extension of Conditional Use Permit 10-30 with the following eight (8) conditions:

- 1. That the numbers of animals (dogs and cats) allowed at the kennel/breeding at one time be in compliance with the number allowed with the Kennel License, up to a maximum of 63, and that one (1) additional outside employee be allowed. Any expansion beyond this will require this Conditional Use Permit to be amended;**
- 2. That reasonable measures are taken by the applicant to control the odors and noises produced by the animals so as to not constitute a nuisance to the surrounding landowners or general public;**
- 3. That the applicant adhere to all necessary County, State and Federal regulations, including those of the Environmental Protection Agency (EPA), and maintain a valid Kennel License with the Humane Society of the Black Hills;**
- 4. That the lot address, 19285 216th Street, continues to be properly posted in accordance with Pennington County's Ordinance #20;**
- 5. That an approved Sign Permit be obtained prior to the placement of any on-premise signs on the property;**
- 6. That prior to the installation of any on-site wastewater disposal system, an approved On-Site Wastewater Construction Permit be obtained, in which the South Dakota Department of Environment and Natural Resources and the Planning Department must both review and approve the design of the system;**
- 7. That the waste produced by the animals be properly disposed of, either by collecting and hauling the waste off-site to an approved disposal facility, composting it on-site, or applying it to the land in accordance with the DENR's comments; and,**
- 8. That this Conditional Use Permit be reviewed in one (1) year or on a complaint basis to ensure that all conditions are being met.**

All voting aye, the Motion carried 5 to 0.

14. REZONE / RZ 14-04 AND COMPREHENSIVE PLAN AMENDMENT / CA 14-04: Kendra Larson; Fisk Land Surveying – Agent. To rezone 38.6 acres from General Agriculture District to Limited Agriculture District and to amend the Pennington County Comprehensive Plan to change the Future Land Use from Planned Unit Development Sensitive to Limited Agriculture District in accordance with Sections 206 and 508 of the Pennington County Zoning Ordinance.

Government Lot 3 (NW1/4SW1/4), Section 30, T1N, R7E, BHM, Pennington County, South Dakota.

Jennissen asked to have this Item removed from the Consent Calendar to discuss changing staff's recommendation for approval. Staff originally recommended approval on the Consent Calendar, but is now requesting the items be continued to the July 28, 2014, Planning Commission meeting in order for the agent to complete the certified mailings.

Moved by Landers and seconded by Hall to continue to Rezone 14-04 and Comprehensive Plan Amendment 14-04 to the July 28, 2014, Planning Commission meeting in order for the agent to complete the certified mailings.

All voting aye, the Motion carried 5 to 0.

16. LAYOUT PLAT / PL 14-14: Celia Bradley; Jim Peterson – Agent. To create Lots A and B of Black Metal #5 Lode MS #1986 in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: All Black Metal #5 Lode MS #1986 less Lot 1-10 (also in Section 19), Section 20, T1S, R5E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots A and B of Black Metal #5 Lode MS #1986, Sections 19 and 20, T1S, R5E, BHM, Pennington County, South Dakota.

Zeller reviewed the Staff Report indicating the applicant has submitted a Layout Plat request to create Lots A and B of Black Metal #5 Lode M.S. 1986. According to the applicant, the purpose of this plat request is to dedicate a 66-foot-wide public access easement for Bradley Gulch Road, which will correct existing access issues, and to also subdivide an existing 17.9 acre parcel into an approximate 14 acre lot and an approximate three (3) acre lot. Ownership of the three (3) acre lot (proposed Lot B) is intended to be conveyed to the Deegan Road District with a “no build” stipulation in order to allow for future road improvements to Bradley Gulch Road.

Staff recommended approval of Layout Plat 14-14 with the following nine (9) conditions:

1. That proposed Lots A and B be rezoned to Limited Agriculture District and Low Density Residential, respectively, or both to Low Density Residential, or else Lot Size Variances be obtained to allow for the proposed lot sizes;
2. That Bradley Gulch Road and Deegan Drive be improved to Low Density Residential/Limited Agriculture District Local/Collector Road Standards, including a 24-foot-wide, four (4) inch gravel driving surface, prior to filing the plat at the Register of Deeds or a surety or bond be posted for these

improvements, or else a Subdivision Regulations Variance be obtained waiving this requirement;

3. That the Section Line traversing the subject property be improved to Ordinance #14 Standards, including a 24-foot-wide, four (4) inch gravel driving surface, prior to filing the plat at the Register of Deeds or a surety or bond be posted for these improvements, or else a Subdivision Regulations Variance be obtained waiving this requirement;
4. That engineered road construction plans be submitted for all required road improvements to Bradley Gulch Road, Deegan Drive, and the Section Line, at the time of Minor Plat submittal, or else a Subdivision Regulations Variance be obtained waiving this requirement;
5. That percolation test results and soil profile information, including an inspection of a profile hole by the Environmental Planner, be provided for proposed Lot A at the time of Minor Plat submittal, or else a Subdivision Regulations Variance be obtained waiving this requirement;
6. That a note be included on the plat indicating that proposed Lot B has a “no build” stipulation and may not be developed, other than future road improvements to Bradley Gulch Road;
7. That the plat be drawn in accordance with the requirements of Section 400.3 of the Subdivision Regulations, including the proper certifications (for all owners) and the scale of the plat to be no greater than one (1) inch equals 100 feet, or else approval of a Subdivision Regulations Variance be obtained;
8. That the plat dedicate all necessary easements, including eight (8) foot utility and minor drainage easements along the interior of all lot lines and a major drainage easement for the location of any existing watercourse, drainage way, channel or stream which traverses the property, or else approval of a Subdivision Regulations Variance be obtained; and,
9. That approval of this Layout Plat request does not constitute approval of any further applications to be submitted for the above-described property.

Commissioner Petersen spoke of staff’s recommendations in the Conditions of Approval and asked if the variances to be obtained can be submitted with one application.

Zeller explained that the Lot Size Variance in Condition #1 would need to be applied for separately as it will only be heard by the Board of Adjustment, but the other Subdivision Regulations Variance requests can be applied for with one application.

Commissioner Petersen also discussed the Section Line and wanted to know why it is not being abandoned with the platting process.

Mr. Jim Peterson, agent, appeared and explained that the Section Line will need to be in place because it gives the property owner to the south of the subject property access to his property and they will not be asking for the Variance on this, since it is a driveway. He further spoke of the area being established in the 1970s and when China Gulch Road was later moved, it created access issues for lots in the area. Proposed Lot B is being given to the Road District so that Bradley Gulch Road can be improved in the future and the other lots can obtain access.

Zeller also clarified that the applicant will be applying for a Subdivision Regulations Variance to waive the Section Line road improvements, but not to vacate the Section Line.

Commissioner Litzen questioned if Deegan Drive can connect to Hill City.

Mr. Peterson said that, on paper, Deegan Drive connects all the way to Hill City, but it actually turns into a trail.

Moved by Hall and seconded by McCollam to approve of Layout Plat 14-14 with the following nine (9) conditions:

- 1. That proposed Lots A and B be rezoned to Limited Agriculture District and Low Density Residential, respectively, or both to Low Density Residential, or else Lot Size Variances be obtained to allow for the proposed lot sizes;**
- 2. That Bradley Gulch Road and Deegan Drive be improved to Low Density Residential/Limited Agriculture District Local/Collector Road Standards, including a 24-foot-wide, four (4) inch gravel driving surface, prior to filing the plat at the Register of Deeds or a surety or bond be posted for these improvements, or else a Subdivision Regulations Variance be obtained waiving this requirement;**
- 3. That the Section Line traversing the subject property be improved to Ordinance #14 Standards, including a 24-foot-wide, four (4) inch gravel driving surface, prior to filing the plat at the Register of Deeds or a surety or bond be posted for these improvements, or else a Subdivision Regulations Variance be obtained waiving this requirement;**
- 4. That engineered road construction plans be submitted for all required road improvements to Bradley Gulch Road, Deegan Drive, and the Section Line, at the time of Minor Plat submittal, or else a Subdivision Regulations Variance be obtained waiving this requirement;**
- 5. That percolation test results and soil profile information, including an inspection of a profile hole by the Environmental Planner, be provided for**

proposed Lot A at the time of Minor Plat submittal, or else a Subdivision Regulations Variance be obtained waiving this requirement;

- 6. That a note be included on the plat indicating that proposed Lot B has a “no build” stipulation and may not be developed, other than future road improvements to Bradley Gulch Road;**
- 7. That the plat be drawn in accordance with the requirements of Section 400.3 of the Subdivision Regulations, including the proper certifications (for all owners) and the scale of the plat to be no greater than one (1) inch equals 100 feet, or else approval of a Subdivision Regulations Variance be obtained;**
- 8. That the plat dedicate all necessary easements, including eight (8) foot utility and minor drainage easements along the interior of all lot lines and a major drainage easement for the location of any existing watercourse, drainage way, channel or stream which traverses the property, or else approval of a Subdivision Regulations Variance be obtained; and,**
- 9. That approval of this Layout Plat request does not constitute approval of any further applications to be submitted for the above-described property.**

All voting aye, the Motion carried 5 to 0.

17. LAYOUT PLAT / PL 14-15: Dallas and Mary Dietrich. To create Lot 1 of Otho Subdivision in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Longmont Lode MS #2067 less Tract A of HES #281 and All of Otho #2 Lode MS #2067, all located in Section 15, T2S, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot 1 of Otho Subdivision, Section 15, T2S, R6E, BHM, Pennington County, South Dakota.

Jennissen reviewed the Staff Report indicating that the applicant has applied for a Layout Plat in order to create Lot 1 of Otho Subdivision. The Layout Plat is to create a 4.895 acre parcel from within two mining claim parcels leaving the rest as an unplatted balance. The proposed plat would create a separate lot for all the structures located on the two parcels.

Staff recommended approval of Layout Plat 14-15 with the following seven (7) conditions:

1. 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;

2. That engineered road construction plans be submitted for the required improvements to Greyhound Gulch Road or obtain a Subdivision Regulations Variance waiving this requirement;
3. That Greyhound Gulch Road be improved to Local Road Standards, which include a 24 foot wide graveled driving surface or obtain a Subdivision Regulations Variance waiving this requirement;
4. That prior to County Board approval of the Minor Plat, the property is either rezoned to Low Density Residential District or a Lot Size Variance obtained to allow a 4.895 acre lot in a General Agriculture District;
5. 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;
6. That prior to Minor Plat approval, an Operating Permit be obtained for the existing on-site wastewater treatment systems; and,
7. That approval of this Layout Plat does not constitute approval of any further applications to be submitted for the above-described property.

Commissioner Litzen asked staff if the applicant is continuing to operate the camp.

Jennissen responded and stated that he believes the applicant is operating the camp and he allows people to stay at the cabins once in a while, not year-around, and only during the summer months.

Mr. Dallas Dietrich, applicant, appeared and stated he is in agreement with staff's recommendations.

Moved by McCollam and seconded by Petersen to approve of Layout Plat 14-15 with the following seven (7) conditions:

- 1. 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;**
- 2. That engineered road construction plans be submitted for the required improvements to Greyhound Gulch Road or obtain a Subdivision Regulations Variance waiving this requirement;**
- 3. That Greyhound Gulch Road be improved to Local Road Standards, which include a 24 foot wide graveled driving surface or obtain a Subdivision Regulations Variance waiving this requirement;**

4. That prior to County Board approval of the Minor Plat, the property is either rezoned to Low Density Residential District or a Lot Size Variance obtained to allow a 4.895 acre lot in a General Agriculture District;
5. 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;
6. That prior to Minor Plat approval, an Operating Permit be obtained for the existing on-site wastewater treatment systems; and,
7. 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 5 to 0.

18. ORDINANCE AMENDMENT / OA 14-04: Pennington County. To amend Section 319-C-5 (Vacation Home Rental) of the Zoning Ordinance.

Jennissen reviewed the Ordinance Amendment for Vacation Home Rentals stating that the proposed change to Section 319-C-5 is to reflect both the County Board of Commissioners' and Planning Commissions' request to eliminate automatic revocation of the Conditional Use Permit for Vacation Home Rentals in General Agriculture Districts, Limited Agriculture Districts and Low Density Residential Districts, with the exception of Vacation Home Rentals in Suburban Residential Districts.

Staff recommended approval of Ordinance Amendment 14-04 to amend Section 319-C-5 of the Vacation Home Rental Ordinance with the following language:

SECTION 319 – VACATION HOME RENTAL

C. Permit Requirements.

5. Upon the sale or transfer of ~~The~~ Conditional Use Permits for VHR's in Suburban Residential Districts, the CUP shall be revoked. ~~upon sale or transfer of ownership of the property.~~ Upon sale or transfer of VHR's in General Agriculture Districts, Limited Agriculture Districts and Low Density Residential Districts the CUP shall be reviewed by the Planning Commission. The local contact information must be mailed out to all property owners within 500 feet. A property owner's list will need to be created to notify the entire surrounding property owners of the new local contact at a fee of \$20.00.

Jennissen also read other language that could be used for the Ordinance Amendment. Upon the sale or transfer of ~~The~~ Conditional Use Permits for VHR's in Suburban

Residential Districts, the CUP shall be revoked. VHR's are transferable in General Agriculture Districts, Limited Agriculture Districts and Low Density Residential Districts. Current CUP holder needs to make application for transfer with the Planning Department prior to transfer of property. Failing to make application prior to property transfer results in revocation of the CUP. The local contact information must be mailed out to all property owners within 500 feet prior to the Planning Commission meeting. A property owner's list will need to be created to notify the entire surrounding property owners of the new local contact at a fee of \$20.

Commissioner Litzen discussed the word "needs" and recommended another word be used.

Commissioner McCollam responded and suggested to change the word "needs" to "shall."

Commissioner Landers also recommended that the wording changes need to be rewritten by the Planning Director and presented to them again.

Commissioner Hall spoke of the last sentence and stated that it be amended to "a list of surrounding property owners will be available from the Planning Department for a fee of \$20" and also take out the apostrophe from VHRs."

Jennissen stated he would rewrite the changes and give the recommendation to the Board of Commissioners.

Commissioner Petersen spoke of the language about the local contact information and that it must be mailed out to all property owners within 500 feet. He stated this is not explained very well by the statement presented to them. He further asked that if items are being referenced, that it be referenced by the section in the Zoning Ordinance so that the public understands what is being presented to them.

Commissioner Landers stated she would like to see this item continued so that the Planning Commission is able to view the rewritten language.

Commissioner Litzen asked staff if the Local Contact information is listed in the documents mailed out.

Jennissen said that it is.

Commissioner Hall asked also that this item be continued so it can be reviewed again.

Moved by Hall and seconded by Landers to continue Ordinance Amendment 14-04 to the July 28, 2014, Planning Commission meeting.

Commissioner Landers asked that the Planning Director send the amended language to them one week prior to the meeting to review it.

Jennissen stated he would send the information to the Planning Commission as requested.

All voting aye, the Motion carried 5 to 0.

19. ORDINANCE AMENDMENT / OA 14-03: Pennington County. To amend sections in Section 204-J (On-Site Wastewater Treatments Systems) of the Zoning Ordinance.

Molitor reviewed the Ordinance Amendment to amend sections in Section 204-J (On-Site Wastewater Treatments Systems) of the Zoning Ordinance.

Staff recommended approval of Ordinance Amendment 14-03.

Commissioner Hall referred to page 7 with the first change “As requested by the Planning Director...” This implies that the Planning Director is requesting for every parcel. She suggested the language be “As individually determined and requested by the Planning Director.” The Planning Director will then look at some and may not request all.

Molitor said it could state: “As individually reviewed and determined by the Planning Director.”

Commissioner Petersen asked if there is a standard definition for severe soils.

Molitor explained that soils are defined by the Natural Resources Conservation Service. They list the types of soils by limited, very limited, severe, to very severe, etc. State Administrative Rules also identify severe soils.

Commissioner McCollam asked what severe means with soils.

Molitor stated severe means “as related to absorption” whether it be bedrock, percolation rates, etc.

Commissioner Hall further spoke of page 13 at the bottom section and said the word “on” needs to be changed to “one.”

Moved by Hall and seconded by Landers to approve of Ordinance Amendment 14-03.

Mr. Mike Ryan, appeared, and discussed page 13 and septic tank sizing. He stated the standard now for a septic tank size is a 1,500 gallon tank. Mr. Ryan further spoke of unfinished floor space (basement) and wanted to know if the septic tank is initially sized based upon the number of bedrooms, and when a bedroom is later added in the unfinished floor space (basement), is the system required to be upgraded.

Molitor responded and spoke of unfinished space with new construction. She stated that, a new house with around 2,000 square feet of unfinished space in the basement, the septic tank is required to be sized at 1,500 gallons, because staff has found properties and

landowners bearing the cost after the fact when basements are finished with additional bedrooms and the septic system is not sized correctly and the proper permits are not obtained.

Mr. Ryan noted that he does agree with this, but if a Building Permit is applied for to add a garage, does this mean the septic system is required to be upgraded?

Molitor said no and explained that the septic system is only required to be upgraded if additional bedrooms are added after the initial Building Permit is applied for and the system is not sized adequately.

Mr. Ryan said that he thought he read that for new construction or an altered residence, the septic system is required to be upgraded.

Molitor further explained that if a residence is altered by adding additional bedrooms only, then the system is required to be upgraded if it is not sized correctly. Molitor stated the language for altered and the number of bedrooms increases is referenced on page 5 in Section d.

Mr. Patrick Grode, Deputy State's Attorney, appeared and clarified that when an initial Building Permit is applied for, for new construction of a residence, and the residence has around 2,000 square feet of unfinished basement and the residence only has two bedrooms, the septic system will be required to be sized for four bedrooms because of the potential of the basement being finished later on, and, if additional bedrooms are added, this will help protect the homeowner with having the septic system sized correctly.

Mr. Grode also stated that if a Building Permit is applied for to expand the kitchen, the homeowner is not required to upgrade the septic system since additional bedrooms are not being added.

Molitor said this is correct.

Mr. Ryan indicated that the public's perception of altered is that any alteration means you need to upgrade your tank size. He asked that staff define exactly what type of alterations would trigger the system to be upgraded.

Jennissen said changes could be incorporated in Section 2-d-i.

Molitor stated there are provisions listing what requires the system to be upgraded and discussed those with the Planning Commission.

Mr. Ryan also discussed page 7 and the removal of the 100-year for the floodplain. He wanted to know what constitutes the floodplain when 100-year is removed.

Molitor stated this had to be changed to reflect the FEMA changes that were adopted in 2013 for the current maps. It will be identified as Flood Zone A.

Mr. Ryan discussed page 13 and the word “vented.”

Molitor explained that this word was added because people were using elbows as baffles and that it be a “tee” and vented inside of the tank.

Mr. Ryan asked that this be changed.

Molitor commented that the word “vented” can be removed and to insert language that it be constructed of a PVC “tee.”

Molitor further reviewed and clarified the changes requested by the Planning Commission.

SUBSTITUTE MOTION: Moved by Hall and seconded by Landers to approve of Ordinance Amendment 14-03 with the changes, as requested by the Planning Commission.

Mr. Don Solinsky, appeared, and asked that PVC “tee” be plural.

All voting aye, the Motion carried 5 to 0.

20. DISCUSSION OF MINING PERMIT ORDINANCE. Pennington County.

Molitor discussed the proposed Mining Permit Ordinance and asked the Planning Commission to review for any suggested changes.

Commissioner Litzen stated that most of the activity is regulated by SD DENR and Pennington County regulates for storm water and air quality.

Molitor noted that it is and Pennington County also addresses buffer areas, haul road agreements, and reclamation requirements.

Commissioner Litzen spoke of proposed changes in the fees.

Molitor said that, at this time, the application cost is \$250, but most of these mining operations are for 5-10 years and this fee change is a general proposal.

Commissioner Landers asked that current, up-to-date maps are required to be submitted with the application.

Commissioner McCollam spoke of placer mining on mining claims and property owners digging up their land and also land by creeks. He questioned how this will be regulated and who enforces those properties being reclaimed.

Commissioner Hall asked staff to include information covering mining on small mining claims.

Discussion proceeded to continue this item for two weeks for Planning Commission to review and return comments and suggestions.

Commissioner Petersen commented that he would like to understand what the different entities require and make it a smooth process for applicants.

Commissioner Hall questioned what staff's role is when a Mining Permit is issued.

Molitor stated that she performs site visits to make sure the applicant(s) have not started work yet until approval is obtained and also periodic site visits to make sure conditions are being met. She further added that she does not duplicate SD DENR and state regulations so that things are not being duplicated with all agencies.

Planning Commission asked that this item be continued to the July 28, 2014, Planning Commission for further review and comments.

21. DISCUSSION OF OVERLAY DISTRICTS. Pennington County.

Molitor informed the Planning Commission that, in the Spring of 2009, a committee was appointed by the Pennington County Board of Commissioners to review and propose changes pertaining to on-site wastewater treatment systems in the Pennington County Zoning Ordinance. This committee met for nearly a year discussing possible changes, attending public meetings and eventually proposing Section 204-J of the Zoning Ordinance. During several meetings, there was significant discussion of creating an "Overlay District" to better address water quality issues in sensitive areas (i.e. aquifer recharge areas, close proximity to streams, high density areas, etc.). Several of the committee members felt that it was a better approach to the frequency of pumping and inspection of septic tanks. In addition, it would address other land use and planning efforts as they pertain to water quality and future infrastructure.

Molitor stated that the Overlay District portion of Section 204-J was not developed or proposed to the Board of Commissioners in 2010. Many of the committee members felt that it was a significant effort and that this group may not be the appropriate group to propose such an effort. In May 2010, the Planning Commission and Board of Commissioners were presented with Section 204-J of the Zoning Ordinance without consideration to the Overlay District development. The Section, with some changes, was approved by the Board of Commissioners in June 2010 and became effective August 10, 2010.

Molitor further stated that, since the Planning Department has more information on many of the on-site wastewater treatment systems in Pennington County and the pumping and observation program is fully implemented, this may be an appropriate time to revisit the option of an Overlay District. Several of the Planning Commissioners have indicated that

they are interested in pursuing implementing an Overlay District. At this time, staff feels that in order to properly implement an Overlay District, it will take extensive planning and information gathering to be effective. Staff is requesting input from the Planning Commission regarding moving forward with an Overlay District. This would include preparing and proposing a plan for the development and implementation of an Overlay District to the Board of Commissioners.

Commissioner Petersen spoke of consulting the City of Laramie and Laramie County on their joint venture. He further spoke of working with the City of Rapid City and other entities as well who might be interested.

Commissioner Hall agreed with Commissioner Petersen and noted that there other entities that would like to have input, including landowners.

Discussion followed.

Commissioner Litzen proposed that Brittney Molitor, Commissioner Hall, and Commissioner Petersen be the core of the committee to get the process started.

Molitor stated they would meet and start the initial process and bring this item back to the Planning Commission at a later time to update the Planning Commission.

22. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commission's recommendations from the June 23, 2014, Planning Commission meeting, with the exception of Subdivision Regulations Variance #14-04 (Norris Peak Lodge). All platting requirements were waived, including road improvements.

23. ITEMS FROM THE PUBLIC

There were no items from the public.

24. ITEMS FROM THE STAFF

- A. Building Permit Report. Jennissen reviewed the Building Permit Report for June 2014.
- B. Update on On-Site Wastewater Treatment Systems. Molitor provided a memo for the Planning Commission to review.

25. ITEMS FROM THE MEMBERSHIP

Commissioner Petersen asked if mobile home parks are ever given a final status instead of a Conditional Use Permit.

Jennissen explained that mobile home parks are allowed through a Conditional Use Permit process and can be reviewed from every 2 to 5 years or on a complaint basis only.

Patrick Grode stated Kinsley Groote will be taking over his position in working with the Planning Department, as he will be leaving the State's Attorney's Office.

26. ADJOURNMENT

Moved by Hall and seconded by McCollam to adjourn.

All voting aye, the Motion carried 5 to 0.

The meeting adjourned at **10:55 a.m.**

Lori Litzen, First Vice-Chairperson