

MINUTES
PENNINGTON COUNTY PLANNING COMMISSION
January 9, 2012 @ 9:00 a.m.

County Commissioners' Meeting Room - Pennington County Courthouse

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

STAFF PRESENT: Dan Jennissen, Lysann Zeller, Mandi Schmierer, and Jeri Ervin.

ROLL CALL

1. APPROVAL OF THE DECEMBER 12, 2011, MINUTES
Moved by Davis and seconded by Zvejnieks to approve the minutes of the December 12, 2011, Planning Commission meeting. Vote: unanimous (7 to 0).

2. APPROVAL OF THE AGENDA
Moved by Hall and seconded by Litzen to approve the January 9, 2012, Planning Commission Agenda, including the Consent Calendar. 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. **REZONE / RZ 11-09:** William and Nancy Ewing; Davis Engineering – Agent. To rezone 1.70 acres from Low Density Residential District to Suburban Residential District to allow for a new residence in accordance with Section 508 of the Pennington County Zoning Ordinance.

EXISTING LEGAL: Lot B of Lot 3 (NE1/4NW1/4) and Lot 5 of Lot C (Gov't Lot 2 NW1/4NE1/4) of J.S. Johnson Subdivision, Section 6, T1N, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots A and B of Ewing Addition, Section 6, T1N, R6E, BHM, Pennington County, South Dakota.

(Continued from the November 28, 2011, Planning Commission meeting.)

To recommend to continue Rezone / RZ 11-09 to the February 13, 2012, Planning Commission meeting.

Vote: unanimous (7 to 0).

END OF CONSENT CALENDAR

4. LAYOUT PLAT / PL 11-31: Dean Kelly Construction/Ryan Kelly. To create Lots 1-3, Block 4, Sheridan Lake Highlands in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Tract B less ROW, Boland Placers MS 1252, Section 2, T1S, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots 1-3, Block 4, Sheridan Lake Highlands, Section 2, T1S, R6E, BHM, Pennington County, South Dakota.

Schmierer reviewed the Staff Report indicating the applicant has applied for a Layout Plat in order to subdivide 17.27 acres into three residential lots.

Staff recommended approval of Layout Plat 11-31 with the following ten (10) conditions:

1. That at the time of Preliminary Plat submittal, the applicant shall provide two (2) sets of percolation test and eight (8) foot soil profile hole information for the proposed lots to be reviewed by the Environmental Planner or else a Subdivision Regulations Variance be obtained waiving this requirement;
2. That a site plan showing the location of all existing structures and associated utilities on the proposed lots be submitted with the Preliminary Plat application;
3. That at the time of Preliminary Plat submittal, Details #1 and #2, shown on the plat, shall be changed from Lot 10 to Lot 3 and Detail #3 shall be changed from Lot 9 to Lot 3;
4. That prior to County Board approval of the Preliminary Plat, the applicant provide engineered road construction plans for any road improvements to be made or else a Subdivision Regulations Variance be obtained waiving this requirement;
5. That prior to County Board approval of the Final Plat, the second layer of asphalt shall be applied to Sawmill Road;
6. That at the time of Preliminary Plat submittal, revised road and drainage plans for Sawmill Road be submitted for their review and approval;
7. That prior to County Board approval of the Final Plat, the accessory structure on proposed Lot 3 shall be removed or the applicant amends the PUD to allow for the existing structure to remain as an accessory structure or constructs a single-family residence on the lot;

8. That at the time of Preliminary Plat submittal, the applicant shall provide water supply information for the proposed lots. If the proposed lots will connect to the existing water system, the applicant shall provide documentation confirming the current water supply and distribution system is adequate to handle the increase in use and that connecting the three (3) additional lots will not have a negative impact on the water supply for the existing platted lots within this development;
9. That prior to the plat being recorded, a Road District shall be formed to maintain the roads or the applicant shall incorporate this development into an existing Road District; and,
10. That at the time of submittal for the Preliminary Plat, the plat meets all the requirements of Section 400.2 of the Pennington County Subdivision Regulations, including the Preliminary Plat to be scaled at not more than one (1) inch equals one hundred (100) feet, and topographic information be provided of the subject property at two (2) foot contour intervals or the applicant obtains an approved Subdivision Regulations Variance waiving any of these requirements that are not met.

Commissioner Johnson discussed the previous request submitted by the applicant in 2007 to subdivide the subject property into 10 lots. He questioned what improvements were required and if they were completed.

Schmierer commented that improvements have not been done since the applicant did not proceed further to finalize the previous submittals.

Moved by Davis and seconded by Johnson to postpone the review of the plat until such time the applicant meets with the homeowners to discuss the condition of the roads and drainage issues within Sheridan Lake Highlands.

Commissioner Zvejnieks concurred with Commissioners Johnson and Davis.

Mr. Kale McNaboe, agent, appeared and noted the concerns regarding the road and drainage issues. He also discussed pavement rehabilitation regarding Sawmill Road.

Commissioner Davis noted that all the roads in the subdivision and not only Sawmill Road need to be brought into compliance.

Ms. Arlene Karsky, resident and member of the Road District and Homeowner's Association of Sheridan Lake Highlands, appeared and requested, on behalf of the residents, for a stay for the approval of the plat, due to the condition of the existing roads and the design and uncompleted roads in the existing development. She also added that they have tried to contact Mr. Kelly several times and have not received any response from him. Ms. Karsky further requested the roads be fixed regardless if there is a Road District in the development.

Commissioner Hall asked Ms. Karsky if there is documentation showing the condition of the road.

Ms. Karsky provided pictures of the roads in the development to the Planning Commission.

Commissioner Johnson then clarified the Motion which is to postpone the application until such time the applicant meets with the homeowners to discuss the condition of the roads and drainage issues, within Sheridan Lake Highlands, and it will also be the applicant's responsibility to ask that his application be placed back on the Planning Commission Agenda.

Ms. Karsky wanted to know if the Motion would also prohibit the applicant from proceeding with building until the roads are fixed, since the machinery the applicant is using is continuing to ruin the roads.

Mr. Kale McNaboe expressed concern that the applicant is still able to obtain Building Permits for other lots in the development and asked that a moratorium is not put into effect.

Commissioner Litzen indicated that a moratorium on the developer would prohibit him from building and, therefore, also limits his cash flow to fix the roads.

Commissioner Johnson discussed limiting the issuance of Building Permits, in case the applicant is violating the conditions, and recommended this item be continued for two weeks so that the applicant can appear and address the concerns of the Planning Commission.

Mr. Patrick Grode, State's Attorney's Office, informed the Planning Commission that they are allowed to limit the issuance of Building Permits to the developer until further notice that he has addressed the concerns of the Planning Commission and the homeowners in the development.

Commissioners Coleman, Hall, and Zvejnieks agreed to continue this item for two weeks.

Commissioner Davis noted that he would amend his motion to also include discussion of limiting the application of Building Permits by the applicant and discussion of the Building Permits will be placed on the Agenda for the January 23, 2012, Planning Commission meeting.

SUBSTITUTE MOTION: Moved by Davis and seconded by Johnson to postpone Layout Plat 11-31 until such time the developer meets with the Road District and Homeowner's Association to resolve the conditions of the roads and drainage issues and those resolutions be brought forth to the Planning Commission and the applicant asks that this Layout Plat 11-31 be placed on the Planning Commission Agenda and the discussion of limiting Building Permits from the developer will be

continued to the January 23, 2012, Planning Commission meeting.

All voting aye, the Motion carried 7 to 0.

5. MINOR PLAT / PL 11-32 AND SUBDIVISION REGULATIONS VARIANCE / SV 11-10: Dean Kelly Construction/Ryan Kelly. To reconfigure lot lines to create Lots 5R, 6R, and 7R, Block 3, Sheridan Lake Highlands and to waive platting requirements in accordance with Sections 400.3 and 700.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lots 5, 6, and 7, Block 3 of Sheridan Lake Highlands, Sections 34 and 35, T1N, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots 5R, 6R, and 7R, Block 3 of Sheridan Lake Highlands, Sections 34 and 35, T1N, R6E, BHM, Pennington County, South Dakota.

Moved by Davis and seconded by Johnson that the Motion for Agenda Item No. 4 is also applied for Agenda Item No. 5.

Commissioner Zvejnieks discussed the Building Permit for Lot 6.

Schmierer stated the applicant has applied for a Building Permit for proposed Lot 6R but it has not yet been approved, due to the proposed layout of the septic system.

Discussion followed.

Moved by Davis and seconded by Johnson to postpone Minor Plat 11-32 and Subdivision Regulations Variance 11-10 until such time the developer meets with the Road District and Homeowner's Association to resolve the conditions of the roads and drainage issues and those resolutions be brought forth to the Planning Commission and the applicant asks that this item be placed on the Planning Commission Agenda and the discussion of limiting Building Permits from the developer will be continued to the January 23, 2012, Planning Commission meeting.

All voting aye, the Motion carried 7 to 0.

6. CONDITIONAL USE PERMIT / CU 11-26: Keith and Lona Lau; D.C. Scott Surveyors – Agent. To allow two accessory structures prior to a principal on proposed Lot 1 and to allow three accessory structures prior to a principal on proposed Lot 5 in accordance with Sections 207, 208, and 510 of the Pennington County Zoning Ordinance.

EXISTING LEGAL: Tract 4R of Tract D in the SE1/4NW1/4 and in the W1/2NE1/4 of Section 9, T1N, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots 1, 2, 3, 4, and 5, Lau Subdivision, Section 9, T1N, R6E, BHM, Pennington County, South Dakota.

Jennissen reviewed the Staff Report indicating the applicants have applied for a Conditional Use Permit 11-26 to allow two accessory structures prior to a principal structure on proposed Lot 1 and to allow three accessory structures prior to a principal structure on proposed Lot 5.

Staff recommended approval of Conditional Use Permit 11-26 with the following six (6) conditions:

1. That the lot address be properly posted in accordance with Pennington County's Ordinance #20, so it is clearly visible at the intersection of the driveway;
2. No commercial activity shall be permitted;
3. That the property remains free of debris and junk vehicles;
4. That this Conditional Use Permit only be valid, if the property is subdivided;
5. That this Conditional Use Permit is not valid until the applicant signs the State of Understanding, which is available at the Planning Office; 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.

Moved by Davis and seconded by Hall to approve of Conditional Use Permit 11-26 with the following six (6) conditions:

- 1. That the lot address be properly posted in accordance with Pennington County's Ordinance #20, so it is clearly visible at the intersection of the driveway;**
- 2. No commercial activity shall be permitted;**
- 3. That the property remains free of debris and junk vehicles;**
- 4. That this Conditional Use Permit only be valid, if the property is subdivided;**
- 5. That this Conditional Use Permit is not valid until the applicant signs the State of Understanding, which is available at the Planning Office; 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.**

Ms. Barbara Van Norman, nearby resident, appeared and asked for more clarification of the applicants' request, since she had just relocated to the area again.

Commissioner Davis explained that the applicants have applied to replat the property and with the replat, there are accessory structures on the proposed lots and the applicants need approval of a Conditional Use Permit in order to allow those accessory structures to remain.

All voting aye, the Motion carried 7 to 0.

The Planning Commission recessed at 9:48 a.m.

The Planning Commission reconvened at 9:55 a.m.

7. ORDINANCE AMENDMENT / OA 11-02: Albert and Rita Chapman. To add Section 319 – Vacation Home Rentals to the Pennington County Zoning Ordinance.

(Continued from the December 12, 2011, Planning Commission meeting.)

The Planning Commission and staff reviewed recommended changes by staff and the Planning Commission to the proposed draft Vacation Home Rental Ordinance with the public.

Discussion further followed to continue the item to the next scheduled Planning Commission meeting with the intent to commence discussion by voting on the proposed 300 foot foundation to foundation distance requirement and the allowance of Vacation Home Rentals in specific zoning districts.

Moved by Litzen and seconded by Zvejnieks to continue Ordinance Amendment 11-02 to the January 23, 2012, Planning Commission meeting.

All voting aye, the Motion carried 7 to 0.

8. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commissions' recommendations from the December 12, 2011, Planning Commission meeting.

9. ITEMS FROM THE PUBLIC

There were no items from the public.

10. ITEMS FROM THE STAFF

- A. Building Permit Report. Jennissen reviewed the Building Permit Report for December 2011.

11. ITEMS FROM THE MEMBERSHIP

There were no items from the membership.

12. DISCUSSION ITEMS

There were no discussion items.

13. ADJOURNMENT

Moved by Hall and seconded by Litzen to adjourn.

All voting aye, the Motion carried 7 to 0.

The meeting adjourned at **12:02** p.m.

Charlie Johnson, Chairperson