

MINUTES
PENNINGTON COUNTY PLANNING COMMISSION
January 23, 2012 @ 9:00 a.m.

County Commissioners' Meeting Room - Pennington County Courthouse

MEMBERS PRESENT: Charlie Johnson, Sig Zvejnieks, Karen Hall, 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 JANUARY 9, 2012, MINUTES
Moved by Davis and seconded by Hall to approve the January 9, 2012, Planning Commission minutes. Vote: unanimous (7 to 0).

2. APPROVAL OF THE AGENDA
Moved by Hall and seconded by Zvejnieks to approve the January 23, 2012, Planning Commission Agenda, with the removal of Item #4 from the Consent Calendar and a correction to Item #5 to change the file number from 08-06 to 09-17. 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. **CONDITIONAL USE PERMIT REVIEW / CU 02-42:** Richard and Pearl Taylor. To review a caretaker's dwelling unit in a General Agriculture Zoning District in accordance with Section 205-C-13 of the Pennington County Zoning Ordinance.

NE1/4 NW1/4 less Weddintree Subdivision & less ROW, Section 23, T1N, R5E, BHM Pennington County, South Dakota.

To recommend to revoke Conditional Use Permit / CU 02-42 with the applicants' concurrence.

Vote: unanimous (7 to 0).

5. **CONDITIONAL USE PERMIT REVIEW / CU 09-17:** Hills Materials/Pennington County Highway Department. To review a temporary asphalt plant involving 15 acres of an 80 acre lot in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

S1/2SW1/4, Section 4, T3S, R13E, BHM, Pennington County, South Dakota.

To recommend to revoke Conditional Use Permit / CU 09-17 with the applicant's concurrence.

Vote: unanimous (7 to 0).

END OF CONSENT CALENDAR

4. CONDITIONAL USE PERMIT REVIEW / CU 08-06: Robert and Melody Riggins. To review a single-wide manufactured 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.

Commissioner Hall asked to have this item removed from the Consent Calendar.

Schmierer reviewed the Staff Report and added the applicants did apply for a Building Permit in February of 2011, which is good for two years.

Commissioner Hall questioned the removal of Conditions #2 and #3, addressing the wastewater, from the original Conditions of Approval. She asked staff if the applicants have met those conditions.

Schmierer stated yes and indicated the conditions were removed since the applicants applied for a Building Permit.

Moved by Hall and seconded by Landers to approve of the extension of Conditional Use Permit 08-06 with the following seven (7) 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 the residence be located outside of the Ellsworth Air Force Installation Compatible Use Area (noise zone) outlined in Section 315 of the Pennington County Zoning Ordinance;**
3. **That the existing access off of Longview Road be utilized for the new single-family residence;**

4. **That the address be properly posted on both the residence and the approach from Longview Road in accordance with Pennington County's Ordinance #20;**
5. **That once the new single-family residence is habitable, the applicant obtains an approved Removal Permit for the existing residence prior to its removal from the property;**
6. **That the proper setbacks of 25 feet from all property lines be maintained for any structures on the property; and,**
7. **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.**

Commissioner Johnson noted the applicants can apply for a one-year extension, prior to February 10, 2013, before their Building Permit expires.

All voting aye, the Motion carried 7 to 0.

6. 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 December 12, 2011, Planning Commission meeting.)

Zeller reviewed that this item has been continued several times over the past year in order for the applicant to address ongoing wastewater violations occurring on the property. The subject property falls within the one-mile septic jurisdiction of the City of Rapid City, therefore, the applicant has been working with the Rapid City Public Works Department to correct the violations.

Zeller further noted that the first two on-site wastewater treatment systems that were identified as failing have now been replaced with mound systems. Since December of 2011, the applicant has applied, with the city, to also replace the remaining two on-site wastewater treatment systems that need fixed with mound systems. As of last week, according to Louie Arguello, of the Rapid City Public Works Department, construction on the third system has begun and he expects construction of the fourth to begin soon. Staff feels it is imperative these systems be completed prior to spring to prevent further failure of the existing on-site wastewater treatment systems, due to possible high groundwater.

Staff recommended the review of Conditional Use Permit 99-37 be continued to the March 26, 2012, Planning Commission meeting in order for the applicant to address the issues with the remaining two wastewater disposal systems and that no Building Permits,

for mobile homes to be moved in to any vacant lots, be issued until such time the wastewater disposal issues have been fixed to the satisfaction of the Rapid City Public Works Department.

Commissioner Davis wanted to know why the County is enforcing the rules and regulations of the City.

Zeller explained that when the applicant's Conditional Use Permit had originally been up for review in December of 2010, through Pennington County, there had been documented ongoing wastewater violations on the subject property. Staff has been working with the applicant to correct the violations in order for him to continue operating the mobile home park and meet the requirements for Mobile Home Parks in the Zoning Ordinance.

Commissioner Johnson noted the Planning Commission agreed not to move forward to approve the extension of the applicant's Conditional Use Permit until he fixed the ongoing violations.

Discussion followed.

Mr. Bob Young, applicant, appeared and reviewed the current wastewater treatment systems that have been installed. He also wanted to know if he is able to obtain two more Building Permits, since two systems have been installed to replace the failing ones.

Commissioner Johnson recommended the Planning Commission concur with their previous motions regarding when the applicant has made progress. In which case, he is able to obtain Building Permits when the new mound systems are installed.

Commissioner Hall added that she did visit the subject property and the applicant is progressing.

Moved by Coleman and seconded by Hall to continue the review of Conditional Use Permit 99-37 to the March 26, 2012, Planning Commission meeting to ensure progress is being made to correct the issues associated with the remaining two wastewater disposal systems and that the Planning Department be allowed to issue Building Permits for two more lots at this time and, once the remaining two wastewater disposal systems are complete and operable, Building Permits may be issued for the remaining two vacant lots.

All voting aye, the Motion carried 7 to 0.

7. ORDINANCE AMENDMENT / OA 11-10. Pennington County. To amend Section 103 "Definitions" and Section 511 "Fees" and to add Section 320 "Road Naming" to the Zoning Ordinance and to add Section 500.5-5 "Road Naming on Plats" to the Subdivision Regulations.

Zeller reviewed the proposed Ordinance and its purpose is to standardize and formalize the existing road naming process and to ensure the proper posting of new road signs. Zeller further explained that staff is requesting this item be continued in order for staff to readvertise the proposed Ordinance, due to the omission of Section 511 in the original legal advertising, and also for staff to meet with the County Highway Department and County Fire Coordinator to address questions they have regarding road signs.

Staff recommended to continue Ordinance Amendment 11-10 to the February 13, 2012, Planning Commission meeting.

Commissioner Davis questioned if the proposed cost of a Road Sign was recommended by the County Highway Department.

Zeller said yes, based upon previous communication with the County Highway Department, but that amount will be verified prior to the next Planning Commission meeting.

Discussion followed.

Moved by Davis and seconded by Coleman to continue Ordinance Amendment 11-10 to the February 13, 2012, Planning Commission meeting.

All voting aye, the Motion carried 7 to 0.

8. LAYOUT PLAT / PL 11-34: Chad Timmer. To create Lot BR and Lot 1R of Lot B, Coulson Placer MS 746 in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lot B less Lot 1 and Lot 1 of Lot B less Right-of-Way, Coulson Placer M.S. 746, Section 22, T1S, R5E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot BR and Lot 1R of Lot B, Coulson Placer M.S. 746, Section 22, T1S, R5E, BHM, Pennington County, South Dakota.

Schmierer reviewed the Staff Report indicating the applicant has submitted a Layout Plat request to reconfigure the shared lot line of Lot B and Lot 1 of Lot B of Coulson Placer M.S. 746. The purpose of the proposed platting is to move the lot line in order to correct some existing encroachment issues, including the pool and pool building being located across the lot line and the access road to the cabins on Lot BR being partially located on existing Lot 1. Existing Lot B currently contains a motel, pool and rental cabins and existing Lot 1 of Lot B currently contains a single-family residence and detached garage.

Schmierer stated the applicant did contact her prior to the meeting and asked to withdraw the Layout Plat application. She further noted the applicant is aware he will still need to address setback and encroachment issues, decks constructed without Building Permits, a

basement constructed beneath one of the cabins without a Building Permit, and the wastewater system.

Staff recommended, at the request of the applicant, that Layout Plat 11-34 be withdrawn.

Commissioner Coleman expressed concern the application purchased the property without knowing the problems associated with it.

Schmierer noted the land surveyor indicated in his special notes, at the bottom of the survey, that a portion of the access road to the cabins, a portion of the pool building and a portion of the pool area appear to be extended onto Lot 1 of Lot B, and the motel sign and a portion of the pool area appear to extend onto highway right-of-way.

Mr. Jim Peterson informed the Planning Commission that he had a prospective buyer withdraw his purchase of the subject property because of the issues that were associated with it and noted that buyers and sellers need to do their due diligence when buying property.

Discussion followed.

Moved by Coleman and seconded by Hall to accept the withdrawal of Layout Plat 11-34, per the applicant's request.

All voting aye, the Motion carried 7 to 0.

9. 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 January 9, 2012, Planning Commission meeting.)

Commissioner Johnson spoke of the items to address before proceeding with reviewing the proposed draft Ordinance: allowing Vacation Home Rentals in Suburban Residential Districts and the proposed 300 foot separation requirement.

Commissioner Hall further recommended a 10 minute recess to review letters the Planning Commission received prior to the start of the meeting.

The Planning Commission recessed at 9:42 a.m.

The Planning Commission reconvened at 9:52 a.m.

Commissioner Karen Hall moved to incorporate the language she drafted for Zoning Requirements for Vacation Home Rentals: Vacation Home Rentals are allowed uses in Highway Service and General Commercial Zoning Districts and in Planned Unit Developments (see Section 213). Vacation Home Rentals are allowed with approval of a Conditional Use Permit in General Agriculture, Limited Agriculture, and Low Density

Residential Zoning Districts. Vacation Home Rentals are permitted with approval of a Conditional Use Permit in a Suburban Residential Zoning District, if the applicant has a permit from the State of South Dakota to operate a Vacation Home Rental at the date of passage of this Ordinance Amendment, or if the applicant has applied for such permit at the date of passage of this Ordinance Amendment.

Motion was seconded by Zvejnieks.

Commissioner Hall also explained that the language, “at the date of passage,” is intended to have owners of Vacation Home Rentals, who are operating illegally, come into compliance by obtaining the correct permits through the State of South Dakota before applying for the Conditional Use Permit to allow a Vacation Home Rental. Commissioner Hall further spoke of reviewing the proposed Ordinance in one year to discuss complaints that may have been filed and to evaluate allowing Vacation Homes in Suburban Residential Districts.

Jennissen recommended that the wording of “may be allowed” should be left in before Planned Unit Developments, since a Vacation Home Rental would not be automatically allowed.

SUBSTITUTE MOTION: Moved by Hall and seconded by Zvejnieks to approve of the new drafted zoning requirements stating: Vacation Home Rentals are allowed uses in Highway Service and General Commercial Zoning Districts and may be allowed in Planned Unit Developments (see Section 213). Vacation Home Rentals are allowed with approval of a Conditional Use Permit in General Agriculture, Limited Agriculture and Low Density Residential Zoning Districts. Vacation Home Rentals are permitted with approval of a Conditional Use Permit in a Suburban Residential Zoning District, if the applicant has a permit from the State of South Dakota to operate a Vacation Home Rental at the date of passage of this Ordinance Amendment, or if the applicant has applied for such permit at the date of passage of this Ordinance Amendment.

Mr. Jeff Sugrue, appeared, and asked if the property owner would be grandfathered-in, after the State license is applied for.

Commissioner Hall said no and indicated the property owner would also have to apply to obtain approval of a Conditional Use Permit.

Discussion further followed between the Planning Commission, staff, and the public regarding the proposed Motion, the proposed removal of the setback requirement from foundation-to-foundation, the use of a Vacation Home Rental considered as a commercial use, proposed revocation of the Conditional Use Permit upon sale or transfer, and if Vacation Home Rentals should be allowed in Suburban Residential Zoning Districts.

Planning Commission recessed at 10:51 a.m.

Planning Commission reconvened at 11:01 a.m.

Commissioner Davis called the Question. Vote on Question: all voted aye. Motion passes 7 to 0.

Vote on Substitute Motion: 5 to 2. Substitute Motion passes. Commissioners Landers, Coleman, Hall, Zvejnieks, and Davis voted yes. Commissioners Johnson and Litzen voted no.

Moved by Hall and seconded by Landers to approve that the Vacation Home Rental portion of the Zoning Ordinance is reviewed by the Planning Commission in one year, and, if there have been no complaints of substance made against any Conditional Use Permits for Vacation Home Rentals in Suburban Residential Districts, reevaluation of the restrictions in the Zoning Ordinance for Vacation Home Rentals in Suburban Residential Districts be reconsidered.

Commissioner Johnson asked that the above language be implemented into a resolution regarding a grace period.

Commissioners Hall and Landers withdrew the previous motion addressing the review period in one year and reevaluation of Vacation Home Rentals in Suburban Residential Districts.

The Planning Commission, staff, and the public continued reviewing the rest of the proposed Ordinance starting where they left off from the meeting on January 9th at Section B.

Moved by Davis and seconded by Landers to remove the wording “and Siting” in Section B and Section C-1 and to also remove the wording “if located more than 300 feet from the nearest residence (distanced measured foundation-to-foundation).”

All voting aye, the Motion carried 7 to 0.

Moved by Johnson and seconded by Hall to use the date of January 9, 2012, as the date to use for the working copy of the draft Ordinance, with the recommended updates from today’s meeting.

Moved by Coleman and seconded by Landers to update the draft Ordinance each time the Planning Commission meets and proposes changes.

SUBSTITUTE MOTION: Moved by Coleman and seconded by Landers to keep the date of January 9, 2012, on the draft Ordinance and to leave the current language in the body of the document, with a strike through, and to include the date the changes were made next to it.

All voting aye, the Motion carried 7 to 0.

Discussion further followed with the continued review of the proposed Vacation Home Rental Ordinance.

Moved by Landers and seconded by Zvejnieks to accept Section 319-C-5, as written, from the January 9, 2012, updated draft Ordinance.

All voting aye, the Motion carried 7 to 0.

Moved by Davis and seconded by Zvejnieks to maintain the same requirements in Section 319-C-6, as in Section 319-C-5 that all license, permit, or fee required shall be revoked upon the sale or transfer of ownership of the property as written in the January 9, 2012, updated draft Ordinance.

Commissioner Hall discussed changing the word “fee” to fees.”

Discussion followed.

All voting aye, the Motion carried 7 to 0.

Moved by Davis and seconded by Hall to approve Section 319-D, as written, from the January 9, 2012 updated draft Ordinance.

All voting aye, the Motion carried 7 to 0.

Moved by Davis and seconded by Coleman to approve the wording of Section 319-E-1, 2, 3, and 4, per the January 9, 2012, updated draft Ordinance.

Zeller stated staff would like to add No. 5 to Section 319-D-E which would state: “Specifications of the existing wastewater treatment system” since this information is needed at the time of submittal so it can be forwarded to SD DENR.”

Discussion followed on the wording of Section 319-E-1 to remove the wording “drawn to scale” or add the word “approximate” to state” drawn to approximate scale” and to also remove the wording “and distance to the nearest neighboring residence.”

SUBSTITUTE MOTION: Moved by Davis and seconded by Coleman to approve Section 319-D-E and to add No. 5 “Specifications of the existing wastewater treatment system” and to remove the wording “drawn to scale” and to also remove the wording “and distance to the nearest neighboring residence” from Section 319-D-E-1.

All voting aye, the Motion carried 7 to 0.

Moved by Landers and seconded by Hall to continue Ordinance Amendment 11-02 to the February 13, 2012, Planning Commission meeting.

All voting aye, the Motion carried 7 to 0.

Commissioner Johnson explained that Agenda items #10, #11, #12, #13, and #14 were heard at the January 19th Planning Commission meeting, and all were approved to adopt the recommended changes and move forward to the Board of Commissioners.

10. ORDINANCE AMENDMENT / OA 11-05. Pennington County. Amendment to Section 209-C “General Commercial District” to include RV Parks as a Conditional Use Permit.

(Continued from the January 9, 2012, Planning Commission meeting.)

Moved by Davis and seconded by Hall to approve of Ordinance Amendment 11-05.

Vote: unanimous (7 to 0).

11. ORDINANCE AMENDMENT / OA 11-06. Pennington County. Amendment to Section 103 “Definitions” to include all definitions from Sections 204-J, 312, 316-B, 317-C, and 507-A-2.

(Continued from the January 9, 2012, Planning Commission meeting.)

Jennissen reviewed minor recommended changes to some of the definitions.

Moved by Landers and seconded by Hall to approve of Ordinance Amendment 11-06.

All voting aye, the Motion carried 7 to 0.

12. ORDINANCE AMENDMENT / OA 11-07. Pennington County. Amendment to Section 103 “Definitions – Developmental Lot” and to amend Sections 401-G and 401-H to change the April 28, 1982, date to February 1, 1994.

(Continued from the January 9, 2012, Planning Commission meeting.)

Moved by Litzen and seconded by Zvejnieks to approve of Ordinance Amendment 11-07.

All voting aye, the Motion carried 7 to 0.

13. ORDINANCE AMENDMENT / OA 11-08. Pennington County. Amendment to Section 204-J “On-Site Wastewater Treatment Systems” to eliminate duplicate section numbers.

(Continued from the January 9, 2012, Planning Commission meeting.)

Moved by Zvejnieks and seconded by Hall to approve of Ordinance Amendment 11-08.

All voting aye, the Motion carried 7 to 0.

14. ORDINANCE AMENDMENT / OA 11-09. Pennington County. Amendment to Section 512, Section 513, Section 514, and Section 515 to define and clarify established limits on application submittals and to revise section numbers.

(Continued from the January 9, 2012, Planning Commission meeting.)

Moved by Coleman and seconded by Litzen to approve Ordinance Amendment 11-09.

All voting aye, the Motion carried 7 to 0.

15. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commissions’ recommendations from the January 9, 2012, Planning Commission meeting.

16. ITEMS FROM THE PUBLIC

There were no items from the public.

17. ITEMS FROM THE STAFF

- A. Building Permits – Sheridan Lake Highlands. Schmierer informed the Planning Commission that Mr. Kelly has met with the Homeowner’s Association in Sheridan Lake Highlands, but no resolutions have been brought forth to date. Schmierer added that Mr. Kelly has asked that the discussion of the Building Permits be continued to the February 13, 2012, Planning Commission meeting, so that he may resolve issues expressed by the Planning Commission and homeowners in Sheridan Lake Highlands.

Moved by Davis and seconded by Hall to continue the discussion of Building Permits for Sheridan Lake Highlands to the February 13, 2012, Planning Commission meeting.

Vote: unanimous (7 to 0).

18. ITEMS FROM THE MEMBERSHIP

Commissioner Johnson commended Planning staff, Lysann Zeller, for her hard work on the recent Vacation Home Rental Ordinance.

19. DISCUSSION ITEMS

Commissioner Litzen spoke of the Memo received regarding Ordinance Amendment Fees.

Commissioner Johnson stated this item will be on the Agenda for the February 13, 2012, Planning Commission meeting.

20. ADJOURNMENT

Moved by Hall and seconded by Litzen to adjourn.

All voting aye, the Motion carried 7 to 0.

The meeting adjourned at **12:42** p.m.

Charlie Johnson, Chairperson