

MINUTES
PENNINGTON COUNTY PLANNING COMMISSION
February 13, 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, Kelsey Rausch, and Jeri Ervin.

ROLL CALL

1. APPROVAL OF THE JANUARY 19, 2012, AND JANUARY 23, 2012, MINUTES
Moved by Hall and seconded by Coleman to approve the January 19, 2012, and January 23, 2012, Planning Commission minutes with minor changes on pages 6, 8, and 9 of the January 23rd minutes. Vote: unanimous (7 to 0).

2. APPROVAL OF THE AGENDA
Moved by Landers and seconded by Hall to approve the February 13, 2012, Planning Commission Agenda, with the removal of Item #7 from the Consent Calendar and to hear Item #11 before Item #10. 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 96-51:** Ted and JoAnne Muffat. To review a mobile home as a caretaker's residence in accordance with Section 204-F of the Pennington County Zoning Ordinance.

Lot 1 of Block 2, Eastern Acres, Section 11, T1N, R8E, BHM, Pennington County, South Dakota.

To recommend approval of the extension of Conditional Use Permit / CU 96-51 with the following six (6) conditions:

1. **That the placement of a double wide manufactured home, including the addition of accessory structures, be allowed through the issuance of a Building Permit which will include necessary site plans to be reviewed and approved by the Planning Director;**

2. That the manufactured home have factory installed house-type siding;
3. That the manufactured home have factory installed peaked non-reflective roof;
4. That the manufactured home be removed at such time that the care is no longer needed for the care of Mark and Viola Brave;
5. That the proposed manufactured home be located outside the proposed right-of-way for the County Heights Outfall Channel; and,
6. That this Conditional Use Permit be reviewed in three (3) years or upon a complaint basis.

Vote: unanimous (7 to 0).

4. **CONDITIONAL USE PERMIT REVIEW / CU 10-04:** Deep Creek Outfitters; Matt Eisenbraun – Agent. To review a home occupation, a gunsmithing business, in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

The NE1/4, S1/2NW1/4, and the SW1/4, Section 9, T4N, R16E, BHM, Pennington County, South Dakota.

To recommend approval of the extension of Conditional Use Permit / CU 10-04 with the following eleven (11) conditions:

1. That a minimum of two (2) off-street parking spaces be provided and that each parking space shall not be less than 162 square feet, nor less than 9 feet by 18 feet; surfaced with gravel, concrete or asphalt and maintained in a dust free manner;
2. 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;
3. That the applicants ensure the residential/agricultural character of the property is maintained;
4. That the home occupation be conducted by members of the family residing on the premises and no more than one (1) additional person;
5. That the applicant obtain any Federal and State Licenses and copies of those licenses be submitted to the Planning Office;

6. 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;
7. That if the applicant install plumbing in the shop, the septic system be approved by the South Dakota Department of Environment and Natural Resources;
8. That the address be properly posted on both the residence and at the approach so it is visible in both directions from 213th Street in accordance with Pennington County's Ordinance #20;
9. That the applicant obtains an Excise Sales Tax License as required by the South Dakota Department of Revenue;
10. That this Conditional Use Permit is not valid until the applicant signs the Statement of Understanding, which is available at the Planning Office; and,
11. That this Conditional Use Permit be reviewed in three (3) years or on a complaint basis to verify that all conditions of approval are being met.

Vote: unanimous (7 to 0).

5. **REZONE / RZ 12-01:** Tim Peiper. To rezone 11.23 acres from Low Density Residential District to Limited Agriculture District in accordance with Section 508 of the Pennington County Zoning Ordinance.

Lot 1 of W1/2SW1/4 less Tract A of Lot 1, less Blaseg Subdivision and less Right-of-Way, Section 15, T2N, R8E, BHM, Pennington County, South Dakota.

To recommend approval of Rezone / RZ 12-01.

Vote: unanimous (7 to 0).

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

To recommend to continue of Rezone / RZ 11-09 to the March 26, 2012, Planning Commission meeting.

Vote: unanimous (7 to 0).

END OF CONSENT CALENDAR

7. LAYOUT PLAT / PL 12-01: Eli and Patricia Rodolph. To create Lots A and B of Brockett Subdivision in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Tract 1, Brockett Subdivision, Section 22, T1S, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots A and B, Brockett Subdivision, Section 22, T1S, R6E, BHM, Pennington County, South Dakota.

Commissioner Johnson asked to have this item removed from the Consent Calendar to discuss adding language referring to a 66-foot-wide access easement for Lot A. He recommended the language be incorporated into Condition #4 of the Conditions of Approval.

Schmierer noted that Condition #4 would state: "That at the time of Preliminary submittal, the applicant provides documentation showing the 66-foot-wide access easement to proposed Lot A, or obtains approval of a Subdivision Regulations Variance waiving this requirement."

Discussion followed.

Moved by Johnson and seconded by Landers to approve of Layout Plat 12-01 with the following nine (9) conditions:

- 1. That at the time of Preliminary Plat submittal, the applicant shall obtain an Operating Permit for the existing wastewater systems located on proposed Lot A;**

2. That prior to applying for the Preliminary Plat, the applicant must provide adequate percolation test results, which includes eight (8) foot soil profile information, for proposed Lot B, to be reviewed by the Environmental Planner or else a Subdivision Regulations Variance be obtained waiving this requirement;
3. That at the time of Preliminary Plat submittal, the applicant provide a 66-foot-wide access easement to Lot A, or obtain approval of a Subdivision Regulations Variance waiving this requirement;
4. That at the time of Preliminary Plat submittal, the applicant provide documentation demonstrating how access will be provided to proposed Lot A;
5. That all setbacks from lot lines be maintained for the existing structures and utilities as a result of the proposed lot split;
6. That the Certifications on the plat be in accordance with Section 400.3.1.n of the Pennington County Subdivision Regulations;
7. The at the time of Preliminary Plat submittal, the comments received from the County Highway Department and the Department of Equalization be addressed by the applicant's surveyor;
8. 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 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 five (5) foot contour intervals or the applicant obtains an approved Subdivision Regulations Variance waiving any of these requirements that are not met; and,
9. That approval of this Layout Plat does not constitute approval of any further applications to be submitted for the above-described property.

All voting aye, the Motion carried 7 to 0.

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

(Continued from the January 23, 2012, Planning Commission meeting.)

Zeller reviewed the proposed Ordinance Amendment and explained that this Ordinance Amendment will formalize the process for road naming and posting of road name signs in Pennington County. Zeller reviewed minor changes to the draft Ordinance recommended

by staff and further reviewed additional changes suggested by the County Highway Department that were received after the Memo and draft Ordinance were sent out in the Planning Commission packet.

Staff recommended approval of Ordinance Amendment 11-10.

Commissioner Zvejnieks asked why the Road Naming Guidelines were suggested as guidelines and not proposed to be part of the formal Ordinance.

Zeller explained the guidelines are intended to be just that and not rules since there is a lot of “gray area” in road naming and addressing and there will be cases where deviating from the guidelines is appropriate. Also, Ted Ruffedt, from the Emergency Communication Services Center, reviews all road names for possible problems associated with duplicate road names, similarities, and the least confusing name assigned for emergency responders.

Commissioner Landers asked if road names are grandfathered.

Zeller said no, there will be no grandfathering for existing road names since they are already named. This Ordinance would apply to roads being named in the future.

Commissioner Davis questioned if staff has reviewed state statutes regarding Road Districts and if the proposed Ordinance Amendment would also fall within their jurisdiction.

Zeller responded that the proposed Ordinance Amendment would still apply to Road Districts, but the County Highway Department would not like to be responsible for posting road name signs in townships and road districts. Zeller further indicated more research is needed to be done to determine who would be responsible for posting signs in these areas.

Discussion followed.

Commissioner Davis recommended this item be continued to review the changes presented by staff and to further clarify the County Highway Department’s suggested changes regarding townships and road districts.

Moved by Davis and seconded by Hall to continue Ordinance Amendment 11-10 to the February 27, 2012, Planning Commission meeting.

All voting aye, the Motion carried 7 to 0.

9. REZONE / RZ 12-02 AND COMPREHENSIVE PLAN AMENDMENT / CA 12-01: Robert Mills/Brandon Mills. To rezone 1.34 acres from Suburban Residential District to General Commercial District and to amend the Comprehensive Plan to change the Future

Land Use Map from Suburban Residential District to General Commercial District in accordance with Section 508 of the Pennington County Zoning Ordinance.

The N1/2 of Lot E of E1/2SE1/4, Section 9, T1N, R8E, BHM, Pennington County, South Dakota.

Jennissen reviewed the Staff Report indicating the applicants have applied to rezone 1.34 acres from Suburban Residential District to General Commercial District and to amend the Comprehensive Plan to change the Future Land Use Map from Suburban Residential District to General Commercial District.

Staff recommended denial of Rezone 12-02 and Comprehensive Plan Amendment 12-01.

Commissioner Litzen questioned if the shop and storage shed on the property had been built by the prior owners.

Jennissen said the main buildings were built by the prior owners and the current owners constructed an addition to the main shop building and also have approval of a Conditional Use Permit to operate a historic auto restoration shop.

Commissioner Zvejnieks discussed other properties in the area zoned General Commercial District.

Commissioner Landers asked if the property could also operate under a Highway Service District.

Jennissen stated yes, but indicated that the proposed use of the property would fit better under the requirements for a General Commercial District.

Commissioner Johnson discussed setbacks in Suburban and General Commercial Districts.

Jennissen noted that the property now has 8 foot side yard setback since it is zoned Suburban Residential District, and if it is rezoned to General Commercial District, the applicants will be required to have 30 foot setbacks next to residential districts or obtain approval of a Setback Variance.

Mr. Robert Mills and Mr. Brandon Mills, applicants, appeared and addressed questions of the Planning Commission.

Commissioner Litzen asked the applicants what they would like to do if the property is rezoned.

Mr. Brandon Mills said they would perform light mechanic work and Mr. Robert Mills added that this would allow them to also work on new vehicles versus historic auto restoration, which they are restricted to now.

Commissioner Zvejnieks asked the applicants if they would also be using the small shed to operate in.

Mr. Brandon Mills and Mr. Robert Mills said no and indicated that all the vehicles would be worked on inside the main shop building.

Commissioner Coleman noted that if the property is rezoned, this would not prohibit the applicants from performing heavy mechanic work. He expressed concern to the Planning Commission that they are relying on the word of the applicants and their intentions to perform light mechanical work.

Commissioner Zvejnieks wanted to know what would happen if the Setback Variance is granted, and the property is sold in the future.

Jennissen explained that the Setback Variance is heard before the Board of Commissioners and, if approved, the Setback Variance generally only applies to existing structures and not future construction.

Mr. Erik Pickar, an attorney representing Mr. Alan Kruse, a neighbor in the area, appeared and spoke in opposition to the applicants' existing Conditional Use Permit and complaints received regarding the use of the subject property. Mr. Pickar further discussed Mr. Kruse's other properties in the area and the property he owns, which is located directly to the south of the applicants' property. Mr. Pickar said that his client does not want a mechanics shop in his backyard and is opposed to the expanded use and asked that the proposed application be denied.

Mr. Alan Kruse and Rick Kruse, appeared, and spoke of noise and smell from the applicants' property and the applicant also performing work on their cars, which is also noisy.

Commissioner Davis asked Mr. Kruse if he also performs auto mechanical work for other people in his garage.

Mr. Kruse said he fixes cars in his garage, but not to the amount that the applicants do.

Commissioner Johnson noted the applicants have the right to fix and work on their own vehicles on their property as they choose.

Discussion further followed between the Planning Commission, staff, and the public regarding the proposed use and rezoning of the subject property.

Mr. Robert Mills and Brandon Mills addressed concerns of the Planning Commission and indicated they have performed landscaping, installed a fence, and cleaned up the property. Mr. Robert Mills also stated he lives on the property and family and friends do

come to the property after 5 p.m. He also noted the traffic noise coming from E. Highway 44 is louder than any of the work they do.

Commissioner Litzen expressed concern with the paint smell and asked the applicants to comment on it.

Mr. Brandon Mills explained that the shop is filtered and up-to-code. When light mechanical work is being done, there is no smell of paint.

Commissioner Hall wanted to know what additional noise would come with the expansion of the proposed use and she also wanted to know what is considered light maintenance.

Mr. Brandon Mills indicated light maintenance is oil changes, fixing tires, fixing brakes, etc.

Commissioner Coleman asked the applicants if they have received other complaints from the surrounding property owners.

Mr. Robert Mills and Brandon Mills said no and commented that they have spoken with the surrounding property owners regarding the work they would like to do and the only complaints have been from the Kruse's.

Jennissen further added that he did receive a phone call and the person calling only wanted to know what the applicants intended to do and they had no issues with the rezone.

Discussion further followed.

Moved by Litzen and seconded by Hall to approve of Rezone 12-02 and Comprehensive Plan Amendment 12-01.

Jennissen further explained that, once this item goes to the Board of Commissioners, staff will be asking for a continuance until the applicants apply for and receive approval of a Setback Variance to reduce setbacks in a General Commercial District.

All voting aye, the Motion carried 7 to 0.

11. FISK LAND SURVEYING – CANADIAN PACIFIC RAILROAD.

Ms. Janelle Finck, Fisk Land Surveying, and representatives of Canadian Pacific Railroad, appeared and reviewed the proposed expansion of Canadian Pacific Railroad in eastern Pennington County. Ms. Finck explained that the property, which is being platted, will only be used by the railroad and not for future development.

Commissioner Coleman questioned what Canadian Pacific Railroad's intentions are.

Mr. David Drach, from Canadian Pacific Railroad, stated they will be expanding the railroad and submitting platting applications to address access, section lines, zoning, easements, rights-of-way, etc. He further spoke of working with other counties and meeting their rules and regulations for platting purposes.

Commissioner Johnson wanted to know if the applications will be submitted individually.

Mr. Drach said yes.

Commissioner Johnson further discussed a 25 foot setback for railroad right-of-way.

Jennissen noted that the railroad right-of-way for the applicants will generally be a minimum of 200- to 300-feet-wide.

Ms. Finck indicated she and the representatives from Canadian Pacific Railroad will also appear before the Board of Commissioners to discuss with them what Canadian Pacific Railroad will be submitting in the future and to address any concerns they may have.

Planning Commission recessed at 10:50 a.m.

Planning Commission reconvened at 11:00 a.m.

Moved by Litzen and seconded by Landers to hear Item #12 before Item #10. All voting aye, the Motion carried 6 to 0.

12. BUILDING PERMITS – SHERIDAN LAKE HIGHLANDS.

(Continued from the January 23, 2012, Planning Commission meeting.)

Commissioner Davis returned to the meeting at 11:02 a.m.

Schmierer stated this item had been continued from the January 23, 2012, Planning Commission meeting in order for Mr. Kelly to meet with the Homeowner's Association in Sheridan Lake Highlands to address their concerns regarding the roads in Sheridan Lake Highlands. Schmierer indicated that Mr. Kelly is at the meeting to answer questions the Planning Commission may have.

Mr. Ryan Kelly appeared and spoke of his intentions to address the concerns regarding repairing the roads in the development. He provided a letter from the American Engineering Testing showing their observations and asphalt coring of the streets within Sheridan Lake Highlands. He further reviewed a timeline for when he anticipates the roads to be done.

Commissioner Davis questioned when all the roads would be done.

Mr. Kelly indicated the spring of 2013.

Commissioner Johnson spoke of the Road District in the development and noted that there also needs to be confirmation from them to proceed, based upon the Planning Commission's prior motions.

Jennissen responded that he has been in contact with the Road District.

Commissioner Johnson noted that, once written confirmation is received from the Road District, the applicant may request to have the platting applications placed on the Planning Commission Agenda.

10. 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 23, 2012, Planning Commission meeting.)

Discussion followed regarding the Motion on Section 319-E-1 from the January 23, 2012, Planning Commission minutes.

The Planning Commission proceeded with reviewing Section 319 starting at Section 319-F from the January 23, 2012, Planning Commission meeting.

Discussion followed on Section 319-F-1. Staff recommended to add the language “no greater than” after shall be and Commissioner Hall recommended adding the language “,but may be fewer, based upon the capacity of the wastewater system” after plus four (4) additional persons.

Moved by Landers and seconded by Zvejnieks to reword 319-F-1 to state: “The maximum occupancy allowed in a VHR shall be no greater than two (2) persons per bedroom, plus four (4) additional persons, but may be fewer, based upon the capacity of the wastewater system. Children age five (5) and under are not counted as occupants.”

All voting, the Motion carried 5 to 2. Commissioners Johnson, Landers, Coleman, Hall, Zvejnieks voted yes. Commissioners Davis and Litzen voted no.

Moved by Zvejnieks and seconded by Hall to leave Section 319-F-5 reflecting the 50 miles as is. All voting aye, the Motion carried 7 to 0.

Commissioner Hall recommended Section 319-F-6 be revised to state: “The wastewater system utilized by the VHR must be approved by the South Dakota DENR and/or must comply with Section 204-J of the Pennington County Zoning Ordinance.”

Discussion followed on 319-F-7. Commissioner Davis recommended 319-F-7 state: "The Owner shall keep records, as required per SDCL 34-18-21. The report shall be provided to the Planning Department upon request."

Moved by Litzen and seconded by Landers to accept Section 319-F-10 as is. All voting aye, the Motion carried 7 to 0.

Discussion followed on minor changes for Section 319-F-11-13.

Commissioner Davis moved to approve the recommended changes in Section 319-F 1 through 13.

Moved by Davis and seconded by Hall to approve the recommended changes in Section 319-F-1 thru 13. All voting aye, the Motion carried 7 to 0.

Moved by Davis and seconded by Coleman to continued Ordinance Amendment 11-02 to the February 27, 2012, Planning Commission meeting. All voting aye, the Motion carried 7 to 0.

Commissioner Davis left the meeting at 12:55 p.m.

13. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commissions' recommendations from the January 23, 2012, Planning Commission meeting.

14. ITEMS FROM THE PUBLIC

There were no items from the public.

15. ITEMS FROM THE STAFF

A. Building Permit Report. Jennissen reviewed the Building Permit for January 2012.

B. Ordinance Amendment Fee. Jennissen explained the Ordinance Amendment process, adopted by Resolution, by the Board of Commissioners.

16. ITEMS FROM THE MEMBERSHIP

There were no items from the membership.

17. DISCUSSION ITEMS

There were no discussion items.

18. ADJOURNMENT

Moved by Hall and seconded by Litzen to adjourn.

All voting aye, the Motion carried 6 to 0.

The meeting adjourned at **1:04** p.m.

Charlie Johnson, Chairperson