

**MINUTES**  
**PENNINGTON COUNTY PLANNING COMMISSION**  
**March 12, 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, Kelsey Rausch, and Jeri Ervin.

ROLL CALL

1. APPROVAL OF THE FEBRUARY 27, 2012, MINUTES  
**Moved by Davis and seconded by Hall to approve the February 27, 2012, Planning Commission minutes. Vote: unanimous (7 to 0).**
  
2. APPROVAL OF THE AGENDA  
**Moved by Landers and seconded by Zvejnieks to approve the March 12, 2012, Planning Commission Agenda. 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 00-02:** Barbara Burnham; John and Jamie Henderson - Agent. To review a 26-foot by 48-foot modular home to be used as a caretaker's residence in a General Agriculture District in accordance with Section 204-D of the Pennington County Zoning Ordinance.

Balance of Lot 18 and all of Lot 19, Saxon Placer MS 1250, Section 34, T1N, R5E, BHM, Pennington County, South Dakota.

**To recommend approval of the extension of Conditional Use Permit / CU 00-02 with the following four (4) 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 once Barbara Burnham no longer needs constant assistance or no longer resides on the property, the modular home shall be removed;**

3. That the 26-foot by 48-foot modular home to be used as the caretaker's residence shall have a factory installed peaked, non-reflective roof and factory installed house-type siding; and,
4. That this Conditional Use Permit shall be reviewed in three (3) years.

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

4. **CONDITIONAL USE PERMIT / CU 12-03:** Keith and Mary Anne Wheeler. To allow for a single-wide mobile to be used as a single-family residence in a Suburban Residential District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance.

The N1/2 of Lot 9, Block 8, Eastern Acres Subdivision, Section 11, T1N, R8E, BHM, Pennington County, South Dakota.

**To recommend approval of Conditional Use Permit / CU 12-03 with the following six (6) conditions:**

1. That the debris be removed or covered to a condition satisfactory to the Ordinance Enforcement Officer prior to issuance of a Building Permit for the new single-wide mobile home;
2. That the property remains free of debris and junk vehicles;
3. That the lot address be clearly posted so it is visible from Lunar Drive at all times in accordance with Pennington County's Ordinance #20;
4. That the mobile home installed on the property have a peaked non-reflective type roof and wood or simulated wood-type siding that is continually maintained and be provided with skirting from the bottom of the walls to the ground;
5. That this Conditional Use Permit is not valid until the applicant signs the Statement of Understanding, which is available at the Planning Office; 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 (7 to 0).**

5. **LAYOUT PLAT / PL 12-04:** Canadian Pacific/David Drach; Fisk Land Surveying – Agent. To create Lot SD099-Lot 1 of WDRPI-SD099 Subdivision in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: SW1/4 of Section 29 and the N1/2NE1/4, SE1/4NE1/4, NW1/4, S1/2 of Section 32, all located in T1N, R15E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot SD099-Lot 1 of WDRPI-SD099 Subdivision, Sections 29, and 32, T1N, R15E, BHM, Pennington County, South Dakota.

**To recommend approval of Layout Plat / PL 12-04 with the following eleven (11) conditions.**

1. **That prior to filing the plat with Register of Deeds, an eight (8) foot minor drainage and utility easement be identified along the interior side of all lot lines on the plat, or a Subdivision Regulations Variance be approved waiving this requirement;**
2. **That prior to Minor Plat Submittal, the applicant rename the plat to: “Plat of Lot 1 of WDRPI-SD99 Subdivision;”**
3. **That prior to Minor Plat submittal, the applicant improve all Section Line Rights-of-Ways to Ordinance 14 Standards or obtain approval of Subdivision Regulations Variance waiving this requirement;**
4. **That prior to Minor Plat submittal, the applicant obtain legal access to the property or obtain approval of a Subdivision Regulations Variance waiving this requirement;**
5. **That prior to Minor Plat submittal, the applicant submit percolation test results and soil profile hole information or obtain approval of a Subdivision Regulations Variance waiving this requirement;**
6. **That prior to Minor Plat submittal, the plat should be rescaled to a scale of not more than 1 inch = 100 feet or obtain approval of a Subdivision Regulations Variance waiving this requirement;**
7. **That major drainage easement for existing drainage ways be dedicated on the plat or obtain approval of a Subdivision Regulations Variance waiving this requirement;**
8. **That at the time of construction of the railroad, the applicant obtains a Construction Permit and Storm Water Quality Permit;**
9. **That topography be submitted at a five (5) foot contour interval or obtain approval of a Subdivision Regulations Variance waiving this requirement;**

10. That a signature block be located on the plat for Mary D. Percy; and,
11. That approval of this Layout Plat does not constitute approval of any further applications to be submitted for the above-described property.

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

## **END OF CONSENT CALENDAR**

6. CONDITIONAL USE PERMIT / CU 12-02: Rushmore Cave, LLC/Tom Hagen and Bobby Sundby. To amend an existing Conditional Use Permit for a Recreational Resort to allow for the addition of an interactive dark theater in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

Lot 1 of Rushmore Cave Subdivision, Section 18, T2S, R7E, BHM, Pennington County, South Dakota.

Zeller reviewed the Staff Report indicating the applicants have applied to amend the existing Conditional Use Permit to allow for an indoor, interactive dark theater on the subject property. She stated the applicants have indicated the theater will seat a total of 12 people and an increase in visitation to the property is not expected, since it is not the main attraction on the property. However, people already visiting the cave or zip line may increase the length of their visit to also experience the theater. Zeller further added that the applicant would like to construct the indoor theater this spring so it is operational by summer.

Staff recommended approval of Conditional Use Permit #12-02 with the following eighteen (18) conditions:

1. That this Conditional Use Permit allows for the existing cave operation, including the use of cave tours, a visitor's center/gift shop, the bunkhouse as a seasonal residence, and associated maintenance buildings, a zip line ride, and the addition of an interactive dark theater on the property. These uses are allowed to occur up to a maximum of six (6) months per year. Any further expansion of these uses will require the Conditional Use Permit to be amended;
2. That if this Conditional Use Permit Amendment is approved (CU #12-02), it shall replace the original Conditional Use Permit (CU #11-03) and staff shall schedule CU #11-03 for an upcoming Planning Commission meeting to be considered for revocation;
3. That a Building Permit be obtained for the proposed interactive dark theater and site plan be provided showing its location in relation to existing lot lines. The

theater must meet all setback requirements at the date of application of the Building Permit;

4. That the applicant maintains visitation records and that these numbers be available to Planning Department staff at subsequent reviews of this Conditional Use Permit to ensure the facilities are adequate for the actual number of guests using the property;
5. That the existing on-site wastewater treatment system servicing the cave operation be reviewed and approved by DENR prior to issuance of a Building Permit for the proposed theater;
6. That the initial and annual inspection results for the zip line ride be made available to the Planning Department;
7. That the cave tours, zip line ride, and interactive dark theater only be operated between the hours of 8 a.m. and 8 p.m.;
8. That a minimum of 63 parking spaces be provided on-site, each measuring a minimum of nine (9) feet by 18 feet and maintained in a dust-free manner in accordance with Section 310 of the Pennington County Zoning Ordinance;
9. That the approach and easement providing access to the subject property be a minimum of 66 feet in width and contain a paved, 32-foot-wide driving surface in accordance with Local/Collector Road Standards for Non-Residential use prior to operation of the cave and zip line;
10. That the internal road network utilized by visitors to the property be in compliance with Local/Collector Road Standards for Non-Residential use, including a minimum 32-foot-wide, paved driving surface, in accordance with Section 213 of the Pennington County Zoning Ordinance and the Subdivision Regulations prior to operation of the cave and zip line. The internal roads utilized only by employees of Rushmore Cave are not required to meet this standard;
11. That engineered road plans be submitted prior to road improvements being conducted in the easement or on the subject property;
12. That a Construction Permit be obtained prior to any excavation or land disturbance greater than 10,000 square feet;
13. That if the approach off of Highway 40 is relocated, it be constructed in accordance with the South Dakota Department of Transportation's Highway Access Permit;
14. That Sign Permits be obtained for any new signage and that it meet the requirements of Section 312 of the Pennington County Zoning Ordinance;

15. That the lot address be clearly posted so it is visible from both directions along Highway 40 in accordance with Pennington County's Ordinance #20;
16. That this Conditional Use Permit only applies to the land described as Lot 1 of Rushmore Cave Subdivision and the uses allowed not be extended onto any adjoining property, in the case Lot 1 is combined with other lots to create Lot 1R;
17. That this Conditional Use Permit is not valid until the applicant signs the Statement of Understanding, which is available at the Planning Office; and,
18. That this Conditional Use Permit be reviewed in four months (4) months or on a complaint basis to verify that all conditions of approval are being met.

Mr. Tom Hagen, applicant/agent, appeared and answered questions of the Planning Commission.

Commissioner Litzen wanted to know how many visitors participated in the zip line ride, during the summer of 2011.

Mr. Hagen stated it was about 30,000 rides.

Commissioner Litzen asked the hours of operation for the cave.

Mr. Hagen stated the cave opens on May 1<sup>st</sup> and until Memorial Day weekend, they are open from 9 a.m. to 5 p.m. and from Memorial Day weekend until the week prior to Labor Day, they are open from 8 a.m. to 8 p.m. and then go back to the hours of 9 a.m. to 5 p.m. for the remainder of the season.

Commissioner Johnson discussed a letter from a concerned citizen questioning what the future plans are for Rushmore Cave.

Mr. Hagen explained that they do not intend to operate Rushmore Cave as an amusement park, but want to add other hands-on experiences that visitors are able to do while they are visiting the cave. Mr. Hagen also spoke of tourism in the Black Hills and the State of South Dakota, noting that it's an important aspect for the area. He further discussed the proposed interactive dark theater and added that it will be the only one of its kind in North American.

Commissioner Landers asked Mr. Hagen to explain how the interactive theater will operate.

Mr. Hagen stated that a person will sit in a seat in the theater, which will move and tilt while they watch a movie screen. The movie will be in 3D and take people through a haunted mine and the person will also have the chance to shoot at ghosts during this time with a laser gun. At the end, the person can also purchase a Reward Poster with a picture

of themselves and what their score is.

Commissioner Zvejnieks questioned if the theater will bring in more tourists to the cave.

Mr. Hagen said that he didn't think so, since the theater will be hard to advertise and their hope is that the tourists who come for the cave will stay a bit longer and want to do the theater as well.

Commissioner Zvejnieks asked if the theater will be inside a contained building.

Mr. Hagen said yes and added that the theater will be in a separate building.

Commissioner Davis spoke of a noise free atmosphere and of addressing the neighboring property owners' concerns.

Mr. Hagen addressed the complaints received regarding the zip line and said that they will be installing a new braking system to mitigate the crash at the end of the ride, which will be installed prior to opening season on May 1<sup>st</sup>. He stated he has spoken with the neighbors in the area and most of them are in agreement that tourists are enjoying their time in the Black Hills and the screams are not a bother. He also spoke of noise decibels from traffic on Highway 40 and the noise from motorcycles during the summer in the Black Hills.

Commissioner Johnson asked what the hours of operation are for the zip line.

Mr. Hagen indicated the zip line is open from 9 a.m. to 7 p.m. during the peak-season. He also noted the cave does most of the business during the hours of 11 a.m. to 5 p.m.

Commissioner Johnson commented that the screams coming from people riding the zip line ride is really the main issue from the neighbors.

Mr. Hagen then showed the Planning Commission where the zip line is located on the property and where the surrounding property owners are located. He further reviewed what discussions he has personally had with the neighbors.

Commissioner Johnson discussed limiting the operating hours of the zip line to 5 p.m. or 6 p.m. and then review the Conditional Use Permit again in July to see if it has helped with then noise issues and if the hours can be extended.

Mr. Hagen said the hours for the zip line could be changed to 9 a.m. to 6 p.m. and, when the CUP is reviewed in July, they could provide ridership numbers at that time to see if limiting the hours is hurting their operation financially.

Mr. Dan Schweitzer, neighbor, appeared and spoke of the noise from the zip line and he also discussed notification to the property owners.

Jennissen noted that the Zoning Ordinance requires notification to property owners within 500 feet of the subject property. Jennissen further read the names of the 20 property owners who were notified by the applicant.

Commissioner Litzen recommended the operating hours of the zip line be from 10 a.m. to 6 p.m.

Moved by Hall to approve of Conditional Use Permit 12-02 and to amend Condition #7 to include the hours of operation for the zip line to be from 9 a.m. to 5 p.m. Seconded by Landers

Zeller also spoke of Conditions #9, #10, and #11 regarding the approach, the internal roads and engineered road plans. Zeller wanted to know if the Planning Commission wished to address those conditions at this time, since they were not required when the applicants obtained the original Conditional Use Permit in 2011.

Commissioner Litzen asked Mr. Hagen if they would like those conditions removed from the Conditional Use Permit.

Mr. Hagen said yes, based upon comments received from the neighbors that they prefer for the roads not to change.

Discussion followed.

**AMENDED MOTION:** Moved by Hall and seconded by Landers approve of Conditional Use Permit 12-02 and to amend Condition #7 to include the hours of operation for the zip line to be from 9 a.m. to 5 p.m. and to remove Conditions #9, #10, and #11.

Mr. Bobby Sundby, applicant, appeared and asked the Planning Commission not take away their peak hours of operation because of operating costs associated with the business. He would like the hours of the zip line to be from 10 a.m. to 6 p.m.

Discussion followed.

**SUBSTITUTE MOTION:** Moved by Hall and seconded by Landers to approve of Conditional Use Permit 12-02 and to amend Condition #7 to include the hours of operation for the zip line to be from 10 a.m. to 6 p.m. and to remove Conditions #9, #10, and #11, with the following fifteen (15) conditions:

- 1. That this Conditional Use Permit allows for the existing cave operation, including the use of cave tours, a visitor's center/gift shop, the bunkhouse as a seasonal residence, and associated maintenance buildings, a zip line ride, and the addition of an interactive dark theater on the property. These uses are allowed to occur up to a maximum of six (6) months per year. Any further expansion of these uses will require the Conditional Use Permit to be amended;**



2. That if this Conditional Use Permit Amendment is approved (CU #12-02), it shall replace the original Conditional Use Permit (CU #11-03) and staff shall schedule CU #11-03 for an upcoming Planning Commission meeting to be considered for revocation;
3. That a Building Permit be obtained for the proposed interactive dark theater and site plan be provided showing its location in relation to existing lot lines. The theater must meet all setback requirements at the date of application of the Building Permit;
4. That the applicant maintains visitation records and that these numbers be available to Planning Department staff at subsequent reviews of this Conditional Use Permit to ensure the facilities are adequate for the actual number of guests using the property;
5. That the existing on-site wastewater treatment system servicing the cave operation be reviewed and approved by DENR prior to issuance of a Building Permit for the proposed theater;
6. That the initial and annual inspection results for the zip line ride be made available to the Planning Department;
7. That the cave tours and interactive dark theater only be operated between the hours of 8 a.m. and 8 p.m. and the zip line ride only be operated between the hours of 10 a.m. and 6 p.m.;
8. That a minimum of 63 parking spaces be provided on-site, each measuring a minimum of nine (9) feet by 18 feet and maintained in a dust-free manner in accordance with Section 310 of the Pennington County Zoning Ordinance;
9. That a Construction Permit be obtained prior to any excavation or land disturbance greater than 10,000 square feet;
10. That if the approach off of Highway 40 is relocated, it be constructed in accordance with the South Dakota Department of Transportation's Highway Access Permit;
11. That Sign Permits be obtained for any new signage and that it meet the requirements of Section 312 of the Pennington County Zoning Ordinance;
12. That the lot address be clearly posted so it is visible from both directions along Highway 40 in accordance with Pennington County's Ordinance #20;
13. That this Conditional Use Permit only applies to the land described as Lot 1 of Rushmore Cave Subdivision and the uses allowed not be extended onto

**any adjoining property, in the case Lot 1 is combined with other lots to create Lot 1R;**

- 14. That this Conditional Use Permit is not valid until the applicant signs the Statement of Understanding, which is available at the Planning Office; and,**
- 15. That this Conditional Use Permit be reviewed in four months (4) months or on a complaint basis to verify that all conditions of approval are being met.**

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

7. LAYOUT PLAT / PL 12-02: Rushmore Cave, LLC/Tom Hagen and Bobby Sundby. To combine lots in order to create Lot 1R of Rushmore Cave Subdivision in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lots 1 and 2 of Rushmore Cave Subdivision; the Balance of Government Lot 5 less Rushmore Cave Subdivision; and a portion of the Balance of Government Lot 4 less Right-of-Way, all located in Section 18, T2S, R7E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot 1R of Rushmore Cave Subdivision, Section 18, T2S, R7E, BHM, Pennington County, South Dakota.

(Continued from the February 27, 2012, Planning Commission meeting.)

Zeller reviewed that this item had been continued from the February 27<sup>th</sup> Planning Commission meeting, at the request of the applicants, in order for Lot 2 to also be incorporated into the three lots to make Lot 1R of Rushmore Cave. Zeller added that the purpose of the proposed platting is to dissolve the shared lot lines between Lot 1, Lot 2, and the Balance of Government Lot 5 and to create a lot which borders Highway 40 right-of-way.

Staff recommended approval of Layout Plat 12-02 with the following eleven (11) conditions:

1. That the corrections to the plat document noted in the Staff Report be made and a revised copy of the plat be provided at the time of Preliminary Plat submittal;
2. That a major drainage easement be dedicated for any natural drainage ways located on proposed Lot 1R in accordance with Section 500.6-4 of the Subdivision Regulations;
3. That an updated site plan be provided at the time of Preliminary Plat submittal showing the location of all existing structures and utilities and their respective

setbacks to lot lines or else an approved Setback Variance be obtained waiving this requirement;

4. That the existing Conditional Use Permit for a Recreational Resort in a General Agriculture District only applies to the portion of the property currently described as Lot 1 of Rushmore Cave Subdivision and may not be expanded to the Balance of Government Lot 5 or the portion of Government Lot 4 being obtained, unless the Conditional Use Permit is amended to allow for such. In the case where the property is rezoned to Highway Service District, the Conditional Use Permit shall be revoked;
5. That the remaining Balance of Government Lot 4 shall be considered an illegal, non-conforming lot in regards to its lot size and may not be developed until such time the lot size is brought into compliance by either obtaining a Lot Size Variance or Rezoning the property to Low Density Residential;
6. That the existing easement providing access to proposed Lot 1R be improved in accordance with the Road Standards for Highway Service District, including 66 feet of right-of-way with a 32 foot paved driving surface, or else a Subdivision Regulations Variance be obtained waiving this requirement;
7. That engineered road plans for the required road improvements to the access easement be provided at the time of Preliminary Plat submittal or else a Subdivision Regulations Variance be obtained waiving this requirement;
8. That the existing access easement across Lot 1, providing access to Lot 2, be vacated and shown as such on the Preliminary Plat;
9. That the applicant define the proposed uses for the bunkhouse on Lot 1 and the single-family residence on Lot 2 at the time of Preliminary Plat submittal to determine if these two residences can be located on the same lot and if a Conditional Use Permit is needed;
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 a five (5) foot contour interval or else an a Subdivision Regulations Variance be obtained waiving any of these requirements that are not met; and,
11. That approval of this Layout Plat does not constitute approval of any further applications to be submitted for the above-described property.

Commissioner Johnson expressed concern with waiving Conditions #6 and #7. He asked that these conditions remain with the Conditions of Approval, since the applicants may

choose, at a later time, to provide a different access/approach to the subject property and then those conditions need to be met at that time.

Jennissen noted the applicants would have to obtain approval of a Subdivision Regulations Variance in order to get those conditions waived while they are going through the platting process.

Zeller explained that the applicants are not intending to change the approach at this time, but if they do in the future, they will need to obtain approval for DOT. Also, Conditions #6 and #7 just pertain to the road providing access to the property and not the internal road network.

Jennissen added that the Subdivision Regulations do not require improvements on the property itself, only to the property.

Mr. Patrick Grode, Deputy State's Attorney, appeared and spoke of the Zoning Ordinance. He stated a condition could be added to the Conditional Use Permit just approved indicating that it is automatically reviewed, when the applicants apply to construct a new driveway to the subject property. He further added the applicants would need a Construction Permit, if the access is changed for road construction and the Planning Department would review the Conditional Use Permit, based upon the Conditions of Approval.

Zeller stated a condition could be added to the CUP when it is reviewed in July, requiring road improvements to the internal roads, if the access is changed.

Discussion followed.

**Moved by Litzen and seconded by Hall to approve of Layout Plat / PL 12-02 with the following eleven (11) conditions:**

- 1. That the corrections to the plat document noted in the Staff Report be made and a revised copy of the plat be provided at the time of Preliminary Plat submittal;**
- 2. That a major drainage easement be dedicated for any natural drainage ways located on proposed Lot 1R in accordance with Section 500.6-4 of the Subdivision Regulations;**
- 3. That an updated site plan be provided at the time of Preliminary Plat submittal showing the location of all existing structures and utilities and their respective setbacks to lot lines or else an approved Setback Variance be obtained waiving this requirement;**
- 4. That the existing Conditional Use Permit for a Recreational Resort in a General Agriculture District only applies to the portion of the property**

currently described as Lot 1 of Rushmore Cave Subdivision and may not be expanded to the Balance of Government Lot 5 or the portion of Government Lot 4 being obtained, unless the Conditional Use Permit is amended to allow for such. In the case where the property is rezoned to Highway Service District, the Conditional Use Permit shall be revoked;

5. That the remaining Balance of Government Lot 4 shall be considered an illegal, non-conforming lot in regards to its lot size and may not be developed until such time the lot size is brought into compliance by either obtaining a Lot Size Variance or Rezoning the property to Low Density Residential;
6. That the existing easement providing access to proposed Lot 1R be improved in accordance with the Road Standards for Highway Service District, including 66 feet of right-of-way with a 32 foot paved driving surface, or else a Subdivision Regulations Variance be obtained waiving this requirement;
7. That engineered road plans for the required road improvements to the access easement be provided at the time of Preliminary Plat submittal or else a Subdivision Regulations Variance be obtained waiving this requirement;
8. That the existing access easement across Lot 1, providing access to Lot 2, be vacated and shown as such on the Preliminary Plat;
9. That the applicant define the proposed uses for the bunkhouse on Lot 1 and the single-family residence on Lot 2 at the time of Preliminary Plat submittal to determine if these two residences can be located on the same lot and if a Conditional Use Permit is needed;
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 a five (5) foot contour interval or else an a Subdivision Regulations Variance be obtained waiving any of these requirements that are not met; and,
11. 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. 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.

Jennissen reviewed that this item had been continued indefinitely until issues regarding the conditions of the roads and drainage issues had been addressed. Jennissen further noted the applicant has been working diligently with the Road District in Sheridan Lake Highlands and the Planning Department to resolve those issues. Mr. Kelly also provided a bond to the Road District in order to provide a second lift of asphalt to roads in the development.

Staff recommended approval of Layout Plat/ PL 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 asked where Rockwood Road is located.

Jennissen stated it is located on the south side of the development, with access taken from Sheridan Lake Road.

Commissioner Landers spoke of Condition #8 and questioned if the well would provide enough water for fire protection.

Jennissen noted that, as a condition of approval, the applicant will have to show, upon submittal of the Preliminary Plat, that there is adequate water for fire protection.

Mr. Ryan Kelly, applicant, appeared and discussed the fire protection for Sheridan Lake Highlands. He noted this was required by the Fire Coordinator of Pennington County when he started developing the lots and the storage reservoir holds about 60,000 gallons of water. Mr. Kelly stated the water system in place will be adequate for the proposed three lots. Mr. Kelly further added that he was been working with the Road District to address their concerns.

Discussion followed.

Ms. Angela Vancas, Vice President of the Homeowner's Association Board and also a Road District Trustee from Sheridan Lake Highlands, appeared, and asked that Road Districts are notified when platting is being proposed where there are Road Districts formed.

Commissioner Johnson noted this and stated this is an item that will be discussed for the future to help Road Districts become aware of what is happening in their area.

Ms. Vancas also discussed the water system for the area.

Commissioner Johnson read Condition #8 addressing the water supply information for the proposed lots and stated the applicant will need to supply this information as he proceeds.

**Moved by Landers and seconded by Litzen to approve of Layout / PL 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.

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

9. 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.

Jennissen reviewed that this item had also been continued indefinitely until issues regarding the conditions of the roads and drainage issues had been addressed. Jennissen further noted the applicant has been working diligently with the Road District in Sheridan Lake Highlands and the Planning Department to resolve those issues. Mr. Kelly also provided a bond to the Road District in order to provide a second lift of asphalt to roads in the development.

**Moved by Davis and seconded by Zvejnieks to approve the Subdivision Regulations Variance / SV 11-10 to waive road improvements to Sienna Meadows Lane and Dry Sage Lane, to waive submittal of engineered road construction plans, and to waive the Section Line to be improved to Ordinance 14 Standards; and approval of Minor Plat / PL 11-32 with the following six (6) conditions:**

1. That prior to County Board approval of the Minor Plat, the applicant improve the Section Line to Ordinance 14 Standards or else obtain a Subdivision Regulations Variance waiving this requirement;
2. That a note be placed on the plat to read: “Lots 5R and 6R shall be restricted to a mound system and/or holding tanks and the system shall be designed by a Registered Professional Engineer;”

3. That prior to County Board approval of the Minor 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;
4. That prior to County Board approval of the Minor Plat, Sienna Meadow Lane and Dry Sage Lane be improved to Local/Collector road standards for a Low Density Residential District, including a 66-foot-wide right-of-way with a 24-foot-wide driving surface and four (4) inches of gravel, or else a Subdivision Regulations Variance be obtained waiving this requirement;
5. That the Certifications on the plat be in accordance with Section 400.3.1.n of the Pennington County Subdivision Regulations; and,
6. That erosion control measures be implemented on Lot 6R prior to any further construction work being performed on the site.

All voting aye, the Motion carried 7 to 0.

10. COUNTY BOARD REPORT

The Board of Commissioners heard the Planning Commissions' recommendations from the February 27, 2012, Planning Commission meeting at their March 6<sup>th</sup> meeting.

Ordinance Amendment 11-02, Vacation Home Rentals, was approved for the First Reading, but the Second Reading was continued to April 17, 2012. During this time, requested amendments to the proposed Ordinance will be sent to the Board of Commissioners and to the Planning Director and then presented at the Second Reading in April.

The First Reading of Ordinance Amendment 11-10, Road Naming Signs, was postponed indefinitely, in order for staff to present to the County Board the need for a Road Naming Ordinance and for other issues regarding road signs to be addressed.

11. ITEMS FROM THE PUBLIC

There were no items from the public.

12. ITEMS FROM THE STAFF

- A. 2011 Year-End Report. Jennissen reviewed the 2011 Year-End Report.
- B. Building Permit Report. Commissioner Johnson recommended this item be discussed at the March 26<sup>th</sup> Planning Commission meeting.

13. ITEMS FROM THE MEMBERSHIP

Commissioner Johnson asked that the Planning Commission members submit a list of recommendations by the June 11, 2012, Planning Commission meeting.

14. DISCUSSION ITEMS

There were no discussion items.

15. ADJOURNMENT

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

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

The meeting adjourned at **11:00** a.m.

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Charlie Johnson, Chairperson