

MINUTES
PENNINGTON COUNTY PLANNING COMMISSION
March 26, 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 Don Holloway.

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

ROLL CALL

1. APPROVAL OF THE MARCH 12, 2012, MINUTES
Moved by Coleman and seconded by Landers to approve the March 12, 2012, Planning Commission minutes. Vote: unanimous (7 to 0).

2. APPROVAL OF THE AGENDA
Moved by Hall and seconded by Zvejnieks to approve the March 26, 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 96-11:** Donald and Norma Lynde. To review a double-wide manufactured home as a caretaker's residence in a General Agriculture District in accordance with Section 510 of the Pennington County Zoning Ordinance.

SE1/4NW1/4, except Lot A, Section 22, T1S, R6E, BHM, Pennington County, South Dakota.

To recommend to continue Conditional Use Permit / CU 96-11 to the April 9, 2012, Planning Commission meeting.

Vote: unanimous (7 to 0).

4. **PRELIMINARY PLAT / PL 12-05:** Eli and Patricia Rodolph. To create Lots A and B of Brockett Subdivision in accordance with Section 400.2 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.

To recommend approval of Preliminary Plat / PL 12-05 with the following four (4) conditions:

1. **That at the time of Final Plat submittal, the applicant provide documentation from the Forest Service identifying how the unauthorized vehicle access to proposed Lot A from Boulder Hill Road will be abandoned and refurbished;**
2. **That prior to the Final Plat being at the Register of Deeds Office, the applicant shall abandon the access from Boulder Hill Road;**
3. **That the existing wastewater system located on proposed Lot A meet all required lot line setbacks from the proposed lot line reconfiguration; and**
4. **That at the time of Final Plat submittal, the misspelled road name on the plat for “Silver Mountain Road” be revised.**

Vote: unanimous (7 to 0).

5. **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 January 23, 2012, Planning Commission meeting.).

To recommend approval of the extension of Conditional Use Permit / CU 99-37 with the following nineteen (19) conditions:

1. **That the mobile home park has a maximum of 41 mobile home spaces with one of the lots acting as the caretaker’s or manager’s residence;**
2. **That each mobile home space be allowed one mobile home, manufactured home or modular home;**

3. That each mobile home be allowed decks and each mobile home space be allowed accessory structures with the issuance of an approved Building Permit;
4. That a minimum 20 foot separation between units be maintained;
5. That a minimum 42 foot setback be maintained from Country Road to ensure adequate right-of-way for future improvements on Country Road;
6. That a minimum front yard setback of ten (10) feet be maintained from all access roads within the mobile home park;
7. That a minimum rear and side yard setback on all sides of the property of not less than ten (10) feet be maintained;
8. That each mobile home space have a minimum of two (2) off-street parking spaces, and that each parking space shall not be less than one hundred sixty two (162) square feet, nor nine (9) feet by eighteen (18) feet, surfaced with gravel, concrete or asphalt and maintained in such a manner that no dust will result from continuous use;
9. That a minimum of eleven (11) visitor parking spaces be provided. Each space shall measure a minimum of 9 feet by 18 feet, be surfaced in gravel, concrete or asphalt and maintained in a dust free manner;
10. That the first 100 feet of the western interior roadway continue to be maintained with a chip seal surface at a minimum of 25 feet in width;
11. That the interior roads be maintained in a dust free manner;
12. That a stop sign be continually posted at the east intersection where the looped interior road and Country Road intersect;
13. That all lot addresses be posted property so they are clearly visible from Elkhorn Lane in accordance with Pennington County's Ordinance #20;
14. That a Building Permit shall be obtained for the removal or placement of mobile homes on the property;
15. That a Building Permit be obtained for any structure exceeding 144 square feet or located on a permanent foundation, which will require a site plan to be reviewed by the Planning Director;
16. That the mobile home park be provided with an on-site management office;

17. That the property remain free of debris and no inoperable of junk vehicles be allowed on the property;
18. That the use of the property be in compliance with all local, state, and federal regulations; and,
19. That this Conditional Use Permit be reviewed in two (2) years or on a complaint basis to determine that all conditions of approval are being met.

Vote: unanimous (7 to 0).

END OF CONSENT CALENDAR

6. PRELIMINARY PLAT / PL 12-06 AND SUBDIVISION REGULATIONS VARIANCE / SV 12-01: William and Nancy Ewing; Davis Engineering – Agent. To create Lots A and B of Ewing Addition and to waive platting requirements to allow for a new residence in accordance with Sections 400.2 and 700.1 of the Pennington County Subdivision Regulations.

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

Schmierer reviewed the Staff Report indicating the applicants have submitted a Preliminary Plat request, with a revised site plan, to reconfigure the lot lines between two (2) existing platted lots. The proposed lot reconfiguration will increase Lot B of Lot 3 (proposed Lot A) from .07 acre to .84 acres and decrease Lot 5 of Lot C of J.S. Johnson Subdivision (proposed Lot B) from 1.64 acres to .76 acres. Schmierer added that the applicants have also submitted a Subdivision Regulations Variance application to waive a number of platting requirements.

Schmierer further discussed the Planning Department's concerns regarding the proposed lot line reconfiguration, floodplain on the subject property, poor soil conditions on the property, the use of holding tanks for the residence on proposed Lot A, the close proximity of individual wells in the area and the close proximity of Rapid Creek.

Staff recommended denial of Preliminary Plat 12-06 and denial of Subdivision Regulations Variance 12-01.

Commissioner Coleman questioned where the new access is being proposed.

Schmierer said from Flume Lane.

Commissioner Johnson commented on the concerns expressed from Black Hills Electric.

Schmierer noted the applicant will need to work with Black Hills Electric to address their concerns regarding the overhead and underground lines and utility easements for the existing line locations.

Commissioner Coleman asked where the existing septic system is located on Lot B.

Schmierer explained that the existing wastewater system for Lot B is located south of the residence. However, the applicant has not submitted percolation tests and soil profile information to support the reserve drainfield.

Mr. Ron Davis, Agent, appeared, and spoke of the revised Preliminary Plat layout and also discussed the concerns regarding the reserve drainfield. Mr. Davis said the wastewater system will fit in the reserve drainfield area, and added that he does have the percolation tests and soil profile information, but the information has not been submitted to the Planning Department. He further discussed the floodplain and stated the proposed house location is not in the floodplain. Mr. Davis spoke of the comments from the County Highway Department, regarding improvements required for Flume Lane, and does not feel this is necessary. He further discussed the holding tank the applicant is proposing and indicated an alarm system will be added.

Commissioner Zvejnieks discussed access off of Flume Lane and expressed concern with the use of a holding tank.

Commissioner Johnson questioned if the access will be located over the existing well.

Mr. Davis stated no.

Commissioner Johnson wanted to know how much buildable space is available for proposed Lot A, limitations of the floodplain and driveway.

Mr. Davis said he did not know, but believes there is enough space to build.

Commissioner Johnson expressed concern that the proposed lot is located too close to the neighboring properties and would make the neighborhood more congested than it already is.

Commissioner Coleman discussed the floodplain on the property and questioned if the floodplain boundaries, as shown, are only a guideline for where the water will flow.

Jennissen stated FEMA bases flood insurance upon the 100-year flood event and the

Zoning Ordinance requires this information when building in the floodplain.

Commissioner Coleman spoke of the proposed building site noting that it is located very close to the floodplain and in close proximity of Rapid Creek.

Mr. Davis said the applicant intends to bring in fill and raise the ground level a couple of feet and then build the structure.

Commissioner Coleman further expressed concern with the location of the structure on the property, the limited amount of buildable space, the use of holding tanks, the presence of floodplain on the property and he further noted that water will and can take a different course at any time when it is flooding.

Mr. Davis addressed this and commented that anything can happen in a flood and there are a lot of possibilities when dealing with the floodplain.

Commissioner Hall also expressed concern with the use of holding tanks and also noted the neighboring property owner's concern and suggested this item be continued so that percolation tests and soil profile information can be submitted.

Mr. Davis said he would recommend continuing this item, so that he can submit the requested information to the Planning Department.

Mr. William Ewing, applicant, appeared and stated that he and his wife would like to retire and build a residence on the proposed lot. If the application is going to get denied, they would like to know it now and not put more time into the project. Mr. Ewing added that he believes the proposed lot is buildable and he further discussed the use of holding tanks. He also spoke of the bridge that needed to be removed and noted that it has been removed and is sitting on his property at the moment. He also questioned the Fire Coordinator's comments regarding buildable space and floodplain on the property and asked that his applications be approved.

Discussion followed on the use and design of a holding tank, other platted properties in the area, the Road District approving the Approach Permit, floodplain on the property and in the area, and the spillway discharge coming from Pactola.

Commissioner Hall said she would like this item continued in order to review the exact location of the well versus the road easement, to review the spillway release data and maps of the area, the percolation tests and soil profile information for the reserve drainfield, the accurate flood measurements on the floodplain drawing from Davis Engineering, and to also review the design and use of holding tanks for buoyancy calculations.

Moved by Hall and seconded by Coleman to continue Preliminary Plat 12-06 and Subdivision Regulations Variance 12-01 to the April 9, 2012, Planning Commission meeting.

All voting aye, the Motion carried 7 to 0.

7. 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 February 13, 2012, Planning Commission meeting.)

Moved by Hall and seconded by Landers to continue Rezone 11-09 to the April 9, 2012, Planning Commission meeting.

All voting aye, the Motion carried 7 to 0.

8. REZONE / RZ 12-03: Kenneth and Candice Bruns. To rezone 40.00 acres from General Agriculture District to Limited Agriculture District in accordance with Sections 206 and 508 of the Pennington County Zoning Ordinance.

The SE1/4SW1/4, Section 29, T1S, R7E, BHM, Pennington County, South Dakota.

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

Jennissen reviewed the Staff Report indicating that this item was continued from the February 27, 2012, Planning Commission meeting in order for the applicant to submit percolation tests and soil profile information due to poor soils in the area. Jennissen added that the applicant does not want to submit percolation tests and soil profile information at this time.

Staff recommended that Rezone 12-03 be continued again in order for the applicant to submit percolation tests and soil profile information, due to the poor soils in the area.

Mr. Kenneth Bruns, applicant, appeared and spoke of the proposed rezone request. He stated that all the surrounding properties are zoned Limited Agriculture, and noted that, if he does sell the property in 10-acre tracts, the new owner could supply this information when they apply for a Building Permit, based upon where they choose to build and also where they will place the drainfield.

Commissioner Coleman expressed to the applicant that percolation tests will assure prospective buyers that there is area on the property to have a wastewater system.

Commissioner Johnson further spoke of the possibility of density being increased and the platting process.

Discussion followed.

Moved by Holloway and seconded by Litzen to approve Rezone 12-03.

Commissioner Coleman commented that the applicant should provide the percolation tests and soil profile information for prospective buyers.

All voting, the Motion carried 5 to 2. Commissioner Coleman and Hall voted no.

9. MINOR PLANNED UNIT DEVELOPMENT AMENDMENT / PU 12-01: Curtis Catoe. To amend an existing Planned Unit Development to allow a temporary sawmill in order to process trees removed from private land for pine beetle control in accordance with Section 213 of the Pennington County Zoning Ordinance.

Lot 10R, Wheel Inn #3, Section 2, T1S, R5E, BHM, Pennington County, South Dakota.

Jennissen reviewed the Staff Report indicating the applicant is requesting a Minor Amendment to the Wheel Inn Planned Unit Development (PUD) to allow a temporary sawmill on the property. He stated the applicant intends to mill pine beetle infested trees that have been hauled and stored on the property, and the temporary use would only mill those trees that are currently located on the property until they have all been milled and hauled away. Jennissen further added that, once the trees have been removed from the property, the sawmill will be removed and the property reclaimed.

Staff recommended approval of Minor PUD Amendment #12-01 with the following nine (9) conditions:

1. That if any work is conducted within the 100-year floodplain, a Floodplain Development Permit first be obtained;
2. That any logs, slabs and chunks of wood or firewood remaining on the property after June 1, 2012, have the bark peeled in order to prevent future Mountain Pine Beetle infestations from the site;
3. That if the number of trips to and from the property exceeds 10 trips a day, the use of truck crossing signs, (W8-6) or (W11-10), are located on Highway 385 to alert motorists of unexpected travel or entries and departure from the roadway;
4. That erosion control measures be implemented to prevent sediment from leaving the site. Acceptable erosion control measures (i.e. silt fence, wattles, etc.) are

defined in the Pennington County Storm Water Quality Manual. This includes erosion control measures to prevent sediment and debris from entering Horse Creek;

5. That tracking control be implemented as required by Section 507-A of the Pennington County Zoning Ordinance (Please see the Pennington County Storm Water Quality Manual for acceptable tracking control measures);
6. That by June 1, 2012, all the logs be removed from the property and the property reclaimed;
7. That the property remains free of debris and junk vehicles so as not to create a Nuisance on the property;
8. That the Minor Amendment to this PUD is not valid until the applicant signs the Statement of Understanding, which is available at the Planning Office; and,
9. That this Minor PUD Amendment be reviewed in three (3) months or on a complaint basis to verify that all conditions of approval are being met.

Commissioner Zvejnieks commented on Conditions #2 and #6 noting that they contradict each other, where Condition #2, from the Weed and Pest office, discusses any remaining logs or wood on the property after June 1st and Condition #6 notes that all logs must be removed and the property be reclaimed by June 1st.

Jennissen stated Condition #2 could be removed from the Conditions of Approval.

Commissioner Johnson also discussed Condition #9 and the recommended review date.

Commissioner Hall wanted to know the amount of wood being processed on the subject property.

Jennissen reviewed site pictures of the subject property and the amount of logs now located on the property.

Mr. Curtis Catoe, applicant, appeared and spoke of the proposed use. He stated this will be a temporary use and he does have portable sawmill to operate on-site. Mr. Catoe further explained that the logs are brought to the property from a business named Black Hills Beetle Control. He added that the bark will be stripped off and disposed of and once the bark is stripped off, the pine beetle larvae will die.

Commissioner Litzen asked Mr. Catoe if he lives at the subject property.

Mr. Catoe said he does not.

Commissioner Zvejnieks wanted to know the hours of operation.

Mr. Catoe said from 8 a.m. to 5 p.m.

Commissioner Johnson questioned if the applicant also wants to operate another commercial business by not only operating the sawmill, but also by selling the logs to make log houses.

Mr. Catoe addressed this and noted that he bought the property under the assumption that the zoning of the property allowed the use of a sawmill.

Commissioner Holloway asked Mr. Catoe what his intentions are for the property after June 1st.

Mr. Catoe indicated that he would like to mill the logs on the property right now and then stop operating by June 1st and then sell the property, since the use is not allowed.

Ms. Gail Mayer, neighbor, appeared and spoke in opposition of the applicant's proposed request. She expressed concern the applicant will not be able to mill all the logs by June 1st and noted the trees brought to the property do have larvae in them.

Mr. Perry Strombeck, neighbor, appeared and also spoke in opposition to the applicant's proposed use. He expressed concern the logs were brought in with bugs in them.

Mr. Mark Ruderforth, neighbor, appeared, and stated he owns the Horse Creek Resort and added that he has lost about 55 trees on his property to the pine beetle. He indicated the applicant's proposed use will impact the neighboring properties and feels the logs should be milled as soon as possible, so that the larvae will not be able to grow and fly away. Mr. Ruderforth added that he believes the risk is too great and the logs need to be removed from the property.

Moved by Johnson to deny Minor Planned Unit Development Amendment 12-03 and authorize the State's Attorney to send a letter to the applicant indicating the logs must be moved as soon as possible and the logs are not to be processed on the subject property. Seconded by Landers.

Discussion followed.

Commissioner Holloway asked Mr. Catoe when he could get the logs removed from the property.

Mr. Catoe stated in two weeks.

SUBSTITUTE MOTION: Moved by Johnson and seconded by Landers to deny Minor Planned Unit Development Amendment 12-03 and the logs must be moved within 14 days and cannot be processed on-site of the subject property.

All voting aye, the Motion carried 7 to 0.

10. CONDITIONAL USE PERMIT REVIEW / CU 10-38: Robert Mills. To review a home occupation, an auto restoration shop, in a Suburban Residential District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance.

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

Jennissen reviewed the Staff Report and indicated the applicants' Conditional Use Permit is being reviewed at the request of the Board of Commissioners.

Staff recommended Conditional Use Permit 10-38, for an historic auto restoration shop, be extended with the following ten (10) 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 applicant adheres to all necessary County, State, and Federal regulations, and maintains the necessary permits to conduct the business;
3. That there is no more than one (1) additional employee, excluding family members;
4. That there is a minimum of three (3) off-street parking spaces available at all times;
5. That all aspects of the business be conducted entirely within an enclosed structure (structure being building) and no stock in trade shall be displayed outside the enclosed structure;
6. That the hours of operation will be conducted between the hours of 7:00 a.m. and 6:00 p.m.;
7. This Conditional Use Permit is not valid until the Statement of Understanding, which is available at the Planning Office, has been signed by the applicant;
8. That if the amount of waste generated from the restoration shop and disposed of in the sanitary sewer exceeds 10,000 gallons per month, Rapid Valley Sanitary District and City of Rapid City must be notified and pretreatment (i.e. sand filter) implemented prior to disposal;
9. That an address be posted on the shop building in accordance with Ordinance #20; and,

10. 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.

Jennissen added that the applicants have asked for a two-week continuance of this item.

Commissioner Holloway spoke of the applicants' comments regarding this Conditional Use Permit, when they appeared before the Board of Commissioners on February 21, 2012, to discuss their Rezone request. Commissioner Holloway noted that this is why he asked to have their Conditional Use Permit reviewed.

Mr. Brandon Mills and Mr. Robert Mills, applicants, appeared and addressed Commissioner Holloway's concerns. Mr. Robert Mills clarified his comments at the County Board meeting in February and stated he does perform light auto mechanics, but not on-site of the subject property, rather at the places of where the businesses are located. Mr. Mills further spoke of complying with all the Conditions of Approval and everything the County has asked them to do.

Commissioner Coleman commented that he had been in favor of the applicants' Rezone request, but the Board of Commissioners was not.

Commissioner Johnson spoke of the applicants having a service truck, which they can store on the subject property.

Mr. Brandon Mills also clarified that, if they own a service vehicle, they can store it on-site.

Commissioner Johnson said yes.

Mr. Brandon Mills also spoke of the added wording of "historic" in staff's recommendation of approval.

Discussed followed on the definition of "historic auto restoration."

Commissioner Holloway asked Mr. Patrick Grode, from the State's Attorney's Office, if there is a legal definition of an historic automobile.

Mr. Grode stated there is no legal, statutory definition of a classic car mechanics shop versus an auto mechanics shop.

Commissioner Holloway questioned what the requirements are to get a historic, classic license plate for a vehicle.

Mr. Brandon Mills responded and said they are available but he did not know the age requirement of the vehicle.

Commissioner Holloway noted that the wording for the applicants' Conditional use Permit needs to be specific in order to define what year of vehicles they are able to restore and work on.

Discussion followed on State Statutes for historic vehicles in order to define the year of vehicles the applicants are able to work on. It was determined a vehicle must be 30 years old to qualify for a historic license plate from the Department of Motor Vehicles.

Mr. Eric Pickar, attorney for Mr. Alan Kruse, appeared and spoke of the applicants' Conditional Use Permit reviews and Rezone application. He stated the initial application of the applicants indicated they would only be restoring historic vehicles and not operating an auto mechanics shop

Moved by Coleman and seconded by Hall to approve of the extension of Conditional Use Permit 10-38, for a historic auto restoration shop, and the addition of a condition defining the age of the year of vehicles being worked on, with the following eleven (11) 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 applicant adheres to all necessary County, State, and Federal regulations, and maintains the necessary permits to conduct the business;**
- 3. That there is no more than one (1) additional employee, excluding family members;**
- 4. That there is a minimum of three (3) off-street parking spaces available at all times;**
- 5. That all aspects of the business be conducted entirely within an enclosed structure (structure being building) and no stock in trade shall be displayed outside the enclosed structure;**
- 6. That the hours of operation will be conducted between the hours of 7:00 a.m. and 6:00 p.m.;**
- 7. This Conditional Use Permit is not valid until the Statement of Understanding, which is available at the Planning Office, has been signed by the applicant;**
- 8. That if the amount of waste generated from the restoration shop and disposed of in the sanitary sewer exceeds 10,000 gallons per month, Rapid Valley Sanitary District and City of Rapid City must be notified and pretreatment (i.e. sand filter) implemented prior to disposal;**

9. That an address be posted on the shop building in accordance with Ordinance #20;
10. 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; and,
11. That historic auto restoration be defined as working on motor vehicles 20 years or older.

All voting aye, the Motion carried 7 to 0.

11. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commissions' recommendations from the March 12, 2012, Planning Commission meeting.

12. ITEMS FROM THE PUBLIC

There were no items from the public.

13. ITEMS FROM THE STAFF

- A. 2012 February Building Permit Report. Jennissen reviewed the February Building Permit Report.

14. ITEMS FROM THE MEMBERSHIP

Commissioner Johnson reminded the Planning Commission to submit proposed recommendations by the first meeting in June.

15. DISCUSSION ITEMS

There were no discussion items.

16. ADJOURNMENT

Moved by Coleman and seconded by Hall to adjourn.

All voting aye, the Motion carried 7 to 0.

The meeting adjourned at **11:36** a.m.

Charlie Johnson, Chairperson