

**MINUTES**  
**PENNINGTON COUNTY PLANNING COMMISSION**  
**May 29, 2012 @ 9:00 a.m.**

County Commissioners' Meeting Room - Pennington County Courthouse

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

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

ROLL CALL

1. APPROVAL OF THE MAY 14, 2012, MINUTES  
**Moved by Hall and seconded by Coleman to approve the May 14, 2012, Planning Commission minutes. Vote: unanimous (7 to 0).**
  
2. APPROVAL OF THE AGENDA  
**Moved by Hall and seconded by Zvejnieks to approve the May 29, 2012, Planning Commission Agenda, with the removal of Items #3, #4, and #7. 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.

5. **LAYOUT PLAT / PL 12-18:** Arlin Stratmeyer. To create Lots 8R and 9 of A & J Subdivision in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lot 8, A & J Subdivision, Section 14, T1S, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots 8R and 9, A & J Subdivision, Section 14, T1S, R6E, BHM, Pennington County, South Dakota.

**To recommend approval of Layout Plat / PL 12-18 with the following nine (9) conditions:**

1. **That prior to or at the time of Preliminary Plat submittal, the applicant provide adequate percolation test results for proposed Lot 9 for review by the Environmental Planner;**

2. That prior to Final Plat approval, Adjenty Court and Stratmeyer Court be improved to Low Density Residential Local/Collector Road Standards, including a 24-foot-wide, four (4)-inch graveled driving surface, a surety or bond be posted for the road improvements, or the applicant obtain approval of a Subdivision Regulations Variance to waive this requirement;
3. That prior to Final Plat approval, engineered road construction plans be provided for the required road improvements to Adjenty Court and Stratmeyer Court or else the applicant obtain approval of a Subdivision Regulations Variance to waive this requirement;
4. That prior to Final Plat approval, the applicant provide proof of proposed Lot 9 being incorporated into the Pine Haven Road District;
5. That all Forest Service boundary markers and corners be protected and no personal property be allowed to be stored on Forest Service land;
6. That all existing structures and utilities meet the minimum setback requirements from the proposed lot lines and that a site plan be provided at the time of Preliminary Plat submittal showing the existing structures and utilities and their respective setback distances to the proposed lot lines;
7. That eight (8) foot utility and minor drainage easements be dedicated along the interior of all lot lines or else a Subdivision Regulations Variance be obtained waiving this requirement;
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, topographic information be provided of the subject property at five (5) foot contour intervals, and the proper certificates and statements be included on the plat or an approved Subdivision Regulations Variance be obtained 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.

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

6. **CONDITIONAL USE PERMIT / CU 12-04:** Glenn and Della Wishard. To bring a multi-family dwelling unit (tri-plex) into compliance in a Suburban Residential District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance.

SW1/4SW1/4SW1/4NW1/4 of Section 16, T1N, R8E, BHM, Pennington County, South Dakota.

(Continued from the May 14, 2012, Planning Commission meeting.)

**To recommend to continue Conditional Use Permit / CU 12-04 to the June 11, 2012, Planning Commission meeting.**

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

8. **MINING PERMIT / MP 12-09:** Gareth Patton; Cody Schad – Agent. To excavate material to mine rocks.

Blue Lead Lode, MS, Sections 18 and 19, T1S, R6E, BHM, Pennington County, South Dakota.

**To recommend to continue Mining Permit / MP 12-09 to the June 11, 2012, Planning Commission meeting.**

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

9. **PRELIMINARY PLAT / PL 12-13:** Marv and Chris Matkins. To create Lots 1, 2, and 3 of Matkins Addition #9 in accordance with Section 400.2 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: That Pt of GL 24 Lying S Of Hwy 16 Less Lots 3,4 and 5 Of Mewonitoc Lode Sub., Less Lot 4 Bar Placer MS 824, Less Lot 1R, 4, and 5 of Matkins Addn #6 and Less Row, Section 30, T1S, R5E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots 1, 2, and 3 of Matkins Addition #9, Section 30, T1S, R5E, BHM, Pennington County, South Dakota.

(Continued from the May 14, 2012, Planning Commission meeting.)

**To recommend to continue Preliminary Plat / PL 12-13 to the June 11, 2012, Planning Commission meeting.**

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

## **END OF CONSENT CALENDAR**

3. **CONDITIONAL USE PERMIT REVIEW / CU 08-48:** Spring Creek Premier Property/Cody Schad. Pat Hall-Owner. To review accessory structures (garage and pump house) without a primary structure in a Limited Agriculture District in accordance with Sections 206 and 510 of the Pennington County Zoning Ordinance.

Lot 2, Bighorn Sheep Preserve, Section 7, T1S, R7E, BHM, Pennington County, South Dakota.

Commissioner Johnson asked to have this item removed from the Consent Calendar to clarify if a structure is located on the property at this time.

Schmierer said no.

Discussion followed.

**Moved by Johnson and seconded by Hall to approve of the extension of Conditional Use Permit / CU 08-48 with the following nine (9) conditions:**

- 1. That the address assigned to the property be properly posted on both the structure and the approach off of Twisted Pine Trails in accordance with Pennington County's Ordinance #20;**
- 2. That a new Building Permit be obtained prior to the construction of the garage;**
- 3. That the recreational vehicle not be used as temporary living quarters unless a Conditional Use Permit is obtained;**
- 4. 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;**
- 5. That if the applicant chooses to install any type of plumbing in the garage, it be hooked into a proper means of wastewater disposal and adhere to all necessary State and County regulations;**
- 6. That proper setbacks be maintained for all structures located on the property or else an approved Setback Variance be obtained;**
- 7. That the garage be used for personal use only and no commercial-type uses;**
- 8. That the property remains free of debris and junk vehicles; and,**
- 9. That this Conditional Use Permit be reviewed in two (2) years or upon a complaint basis to verify that all conditions of approval are being met.**

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

4. ROAD NAMING: Pennington County. To name a 50-foot-wide access and utility easement providing access to property located in Sections 18 and 19, T1S, R5E, and Sections 13 and 24, T1S, R4E, BHM, Pennington County, to Little Tiger Lane.

Commissioner Hall asked to have this item removed from the Consent Calendar to discuss where the location of the 50-foot-wide easement, based upon the exhibits included with the Staff Report.

Zeller explained that the entire easement documentation was included in the packet; however, the entirety of the easement to be named is located on Exhibits A and B. Zeller further reviewed on the site plan where the road is located.

Discussion followed.

**Moved by Hall and seconded by Litzen to approve of the Road Name of Little Tiger Lane.**

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

7. LAYOUT PLAT / PL 12-19: Chris and Tiffany Hodo/Shawn and Jodi Burke. To create Lot A of Hodo Subdivision and Lot A of Burke Subdivision in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Tract L of SE1/4NW1/4 and the SW1/4NE1/4 less RTY and deeded Lot in the SW1/4NE1/4 of Section 14, T1S, R10E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot A of Hodo Subdivision and Lot A of Burke Subdivision, Section 14, T1S, R10E, BHM, Pennington County, South Dakota.

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

Schmierer reviewed the Staff Report indicating the applicant has requested to enlarge an existing 2 acre deeded lot by adding 4.48 acres from the adjacent property to the north (owned by Burke) and to create a separate three acre lot. The enlarged lot, proposed Lot A of Hodo Subdivision, would measure approximately 6.448 acres. The plat request also includes a request to create a new lot, proposed Lot A of Burke Subdivision, that would measure approximately three (3) acres. Both of the proposed lots contain single-family residences and on-site wastewater systems.

Staff recommended approval of Layout Plat / PL 12-19 with thirteen (13) conditions.

Commissioner Hall spoke of the Register of Deeds' comments indicating that only one subdivision name can be on a plat.

Schmierer explained the applicants will need to have the plat retitled and she has included this in the Conditions of Approval.

Commissioner Johnson discussed the access easements for the properties and questioned if they will remain.

Schmierer stated yes and indicated an additional 33 feet will be added to the existing 33 feet to make a 66-foot-wide access easement. Schmierer further added that the 66-foot-wide access easement will only be dedicated up to Lot A.

Mr. Chris Hodo, applicant, appeared and spoke of the proposed application. He addressed the access easement and added that he has spoken with the neighbors and they are not opposed to it being fenced, as long as he allows the neighbor access to the land, where the neighbor's horses are located.

Discussion followed.

**Moved by Hall and seconded by Zvejnieks to approve of Layout Plat / PL 12-19 with the following thirteen (13) conditions:**

- 1. That prior to approval of the Final Plat, both of the proposed lots shall either be rezoned to Low Density Residential or else the applicant obtains a Lot Size Variance for each lot to reduce the minimum lot size requirement in a General Agriculture District;**
- 2. That prior to approval of the Final Plat, the applicant improve the easement providing access to the proposed lots and to Main Street, to Local/Collector Road Standards, including 66 feet of right-of-way (or easement) with a 24-foot-wide, 4 inch graveled driving surface, or else a surety be posted for the road improvements or an approved Subdivision Regulations Variance be obtained waiving this requirement;**
- 3. That prior to approval of the Final Plat, the applicant provide engineered road construction plans for the road providing access to the proposed lots or else obtain an approved Subdivision Regulations Variance waiving this requirement;**
- 4. That at the time of Preliminary Plat submittal, the plat heading shall be revised in accordance with the review comments from the Register of Deeds;**
- 5. That prior to Preliminary Plat submittal, the wastewater system on proposed Lot A of Burke Subdivision shall be repaired;**
- 6. That prior to the recording of the Final Plat, the applicant shall obtain Operating Permits for the wastewater system on proposed Lot A of Burke Subdivision;**

7. That a 66-foot-wide access easement be recorded simultaneously with the mylar for the portion of the easement that crosses Outlot B of Lot 1;
8. That all setbacks from lot lines be maintained for the existing structures and utilities, as a result of the proposed plat;
9. That the addresses for each lot be posted in accordance with Ordinance #20;
10. 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 or else a Subdivision Regulations Variance be obtained waiving this requirement;
11. That any adjustments to be made to the existing overhead power line will be at the applicant's expense;
12. That at the time of submittal for the Preliminary Plat, the plat meets all the requirements of Section 400.3 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,
13. 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.

10. REZONE / RZ 12-04 AND COMPREHENSIVE PLAN AMENDMENT / CA 12-02:  
Todd Munyon - Main Street Motors. To rezone .15 acres from Limited Agriculture District and 2.45 acres from General Agriculture 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 Sections 209 and 508 of the Pennington County Zoning Ordinance.

Lot D of NE1/4SW1/4 and Lot A of NW1/4SW1/4, Section 14, T1N, R8E, BHM, Pennington County, South Dakota.

(Continued from the May 14, 2012, Planning Commission meeting.)

Zeller stated this item had been continued from the May 14, 2012, Planning Commission meeting. She further reviewed the applicant's request and addressed concerns of staff regarding the existing lot configuration, potential spot zoning, the existing approach off of E. Highway 44, and Anderson Ditch.

Staff recommended denial of Rezone 12-04 and Comprehensive Plan Amendment 12-02, based on its unconformity with the Pennington County Comprehensive Plan.

Commissioner Hall spoke of the City's comments regarding the proposed use of the property and expressed concern with the difference in the City and County's Comprehensive Plans.

Zeller stated that staff typically makes recommendations, based upon the County's Comprehensive Plan.

Commissioner Hall asked when the County's Comprehensive Plan was last updated.

Zeller stated it was adopted in 2003 and has not been updated other than individual Comprehensive Plan Amendments.

Commissioner Johnson discussed the applicant parking vehicles on the property and selling them without rezoning it.

Zeller indicated the applicant is required to have a Dealer's License from the State in order to operate the business, and the State also requires a letter from the County stating the property is zoned appropriately to allow for car sales.

Mr. Todd Munyon, applicant, appeared and further explained that a car dealer business cannot display more than two vehicles at a time for sale, unless they operate with a Dealer's License, per State Law that was passed in 2008. He further stated he has cleaned up the property and does not have intentions to remove the residence. He also spoke of the bus located at the approach, partially located in the highway right-of-way, and noted that it can be removed from the property. He further discussed the rezone of the property and other commercial uses in the area and asked that the applications are approved.

Commissioner Buskerud also commented on the bus parked in the highway right-of-way and stated it is illegal to be parked there.

Mr. Munyon said it could be removed immediately.

Commissioner Coleman asked the applicant if he intends to live on-site and sell vehicles at the property.

Mr. Munyon said yes.

Discussion further continued between the Planning Commission and the applicant regarding the possibility of a high water table on a portion of the property, compatible uses along E. Highway 44, and spot zoning in the area.

Mr. Robert Riggin, owner of Main Street Motors, appeared and discussed the Planning Commission's concerns regarding the size of the lot and spot zoning.

Commissioner Johnson addressed Mr. Riggin's comments and indicated the lot is very small for a commercial-type use.

**Moved by Zvejnieks and seconded by Hall to deny Rezone 12-04 and Comprehensive Plan Amendment 12-02.**

Commissioner Coleman spoke of the proposed rezone request and stated he would vote against the motion to deny.

Commissioners Johnson and Hall both stated they are not in favor to rezone the property and would vote to deny the requests.

**All voting, the Motion to deny passed 4 to 3. Commissioners Johnson, Buskerud, Hall and Zvejnieks voted yes. Commissioners Litzen, Landers, and Coleman voted no.**

11. CONDITIONAL USE PERMIT / CU 12-05: Walter Banovic. To bring a multi-family dwelling unit (duplex) into compliance in a Low Density Residential District in accordance with Sections 207 and 510 of the Pennington County Zoning Ordinance.

Lot 1 and 1/2 vacated road less Lot A, Hisega Subdivision, Section 16, T1N, R6E, BHM, Pennington County, South Dakota.

(Continued from the May 14, 2012, Planning Commission meeting.)

Schmierer stated this item had been continued from the May 14, 2012, Planning Commissioner meeting in order for the applicant to work with staff to provide a site plan addressing the parking and also to upgrade the existing wastewater system servicing the duplex.

Staff recommended Conditional Use Permit 12-05 be continued to the June 11, 2012, Planning Commission meeting, as the applicant is still in the process of upgrading the existing wastewater system, but has provided staff with a current site plan for the parking.

Schmierer added that she did speak with the wastewater installer before the meeting and informed him of the recommended continuance. On behalf of the applicant, he requested the item be approved at the meeting today in order to close on the sale of the property by the end of May.

Commissioner Landers questioned if the contract, for the sale of property, also includes the work intending to be done on the wastewater system.

Ms. Carol Duncan, neighbor and proposed buyer of the applicant's property, appeared and stated she does intend to purchase the applicant's property when the wastewater system is fixed, but would like all of the work done prior to the closing. She further added that they have been hired Mr. Solinsky to upgrade the existing wastewater system. The improvements include adding an additional tank that will serve the duplex and increase the size of the drainfield. She also informed the Planning Commission that percolation tests have been done. Ms. Duncan indicated that she does not want the ongoing work included in the contract.

Commissioner Johnson asked staff if Mr. Solinsky has started work on the upgrade to the wastewater system.

Schmierer responded no and explained that Mr. Solinsky is waiting to hear from DENR for their review and approval of the system, too. Once approval is obtained from them, then the County Environmental Planner will also review and approve the application.

Commissioner Litzen questioned why the wastewater system application has not been submitted to DENR and wanted to know how long it would take to hear back from them.

Schmierer noted that commercial uses require DENR approval and it should take about a week for DENR approval.

Commissioner Hall also discussed the easement for the drainfield, which is located on property the proposed buyer does not own.

Ms. Duncan said the existing easement will provide enough room for the addition to the drainfield.

Commissioner Zvejnieks clarified with Ms. Duncan that she does not intend to close on the property until all the work is done.

Ms. Duncan responded yes.

**Moved by Landers and seconded by Coleman to continue Conditional Use Permit 12-05 to the June 11, 2012, Planning Commission meeting.**

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

12. CONDITIONAL USE PERMIT AMENDMENT / CU 12-10: Tom Bodensteiner. To amend the existing Conditional Use Permit to allow for a portable sawmill to process bug-wood trees in a Limited Agriculture District in accordance with Sections 206 and 510 of the Pennington County Zoning Ordinance.

Lot 1R, Beard Subdivision, Section 21, T2N, R8E, BHM, Pennington County, South Dakota.

Schmierer reviewed the Staff Report indicating the applicant is requesting to amend an existing Conditional Use Permit 09-10, which allows for a sawmill within a Limited Agriculture Zoning District, to allow for a portable sawmill to be set up on-site for the purposes of processing bug-wood trees on a part-time basis.

Staff recommended approval of Conditional Use Permit Amendment / CU 12-10 with the following sixteen (16) conditions:

1. That this Conditional Use Permit be limited to the processing of timber I-beams into boards for Bodensteiner Beamworks and the processing of bug wood trees behind the shop building for up to one (1) year upon the date of approval of this CUP, any expansion beyond this will require the Conditional Use Permit to be reviewed;
2. That the amount of bug wood trees piled on-site be limited to a one week supply;
3. That the daily hours of operation shall be 8:00 a.m. to 4:00 p.m., Monday through Friday;
4. That the lot address be clearly posted on the residence as well as at both entrances to the property so it is visible from both directions along in accordance with Pennington County's Ordinance #20;
5. That the shavings from the timbers and the bug wood trees be properly disposed of and placed in a dumpster and hauled away on a regular basis;
6. That the applicant ensures the residential character of the property is maintained;
7. That the applicants obtains the necessary permit from the South Dakota Department of Environment and Natural Resources prior to any further activity associated with the sawmill being performed on-site;
8. That no new approaches be allowed;
9. That the applicant obtains the necessary permit from the Rapid City Air Quality Department;
10. That a total of three (3) portable fire extinguishers with a minimum 2 A-BC rating be placed within the building;
11. That prior to the placement of any on-premise signs, the applicant must obtain approval of a Sign Permit;
12. That a minimum of four (4) off-street parking spaces be provided. Each parking space shall measure at least nine (9) feet by 18-feet and shall be kept in a dust free manner;

13. That any trade or stock associated with the business must be stored inside a structure or behind a privacy fence;
14. 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;
15. That green infested MPB trees not be moved from July thru September unless trees are debarked; and,
16. That this Conditional Use Permit be reviewed in one (1) year or on a complaint basis to ensure that all conditions are being met.

Commissioner Litzen wanted to know why Condition #13, from the original Conditions of Approval regarding work in the floodplain, had been removed.

Schmierer stated the applicant did obtain approval of a Floodplain Development Permit and the condition could now be removed.

Commissioner Coleman discussed a previous application submitted by Mr. Curtis Catoe, who also wanted to operate a temporary sawmill on a different piece of property in the hills, and asked if the logs from that property are being transported to Mr. Bodensteiner's property to be processed.

Mr. Bodensteiner, applicant, responded yes and further asked that Condition #2 be removed from the conditions of approval, since they are not able to remove trees from the hills five months out of the year because of weather. He also explained that he has several property owners removing bug-wood trees without a place to process them. Mr. Bodensteiner further discussed Condition #15 and noted that the Forest Service wants the bug-wood trees removed before the end of April of each year.

Commissioner Johnson indicated that the City of Rapid City has adopted a new Ordinance regarding the storage of bug-wood trees.

Mr. Bodensteiner stated this pertains to land located inside the Black Hills Forest District, which Rapid City is, but he is located just outside of that District.

Commissioner Johnson spoke of rewording Condition #2 to state: "That the amount of bug-wood trees stored on-site, shall be located in a designated area."

Discussion followed.

**Moved by Landers and seconded by Hall to approve of Conditional Use Permit Amendment 12-10, with the change to Condition #2, with the following sixteen (16) conditions:**

1. That this Conditional Use Permit be limited to the processing of timber I-beams into boards for Bodensteiner Beamworks and the processing of bug wood trees behind the shop building for up to one (1) year upon the date of approval of this CUP, any expansion beyond this will require the Conditional Use Permit to be reviewed;
2. That the bug wood trees stored on-site be placed in a designated area;
3. That the daily hours of operation shall be 8:00 a.m. to 4:00 p.m., Monday through Friday;
4. That the lot address be clearly posted on the residence as well as at both entrances to the property so it is visible from both directions along in accordance with Pennington County's Ordinance #20;
5. That the shavings from the timbers and the bug wood trees be properly disposed of and placed in a dumpster and hauled away on a regular basis;
6. That the applicant ensures the residential character of the property is maintained;
7. That the applicants obtains the necessary permit from the South Dakota Department of Environment and Natural Resources prior to any further activity associated with the sawmill being performed on-site;
8. That no new approaches be allowed;
9. That the applicant obtains the necessary permit from the Rapid City Air Quality Department;
10. That a total of three (3) portable fire extinguishers with a minimum 2 A-BC rating be placed within the building;
11. That prior to the placement of any on-premise signs, the applicant must obtain approval of a Sign Permit;
12. That a minimum of four (4) off-street parking spaces be provided. Each parking space shall measure at least nine (9) feet by 18-feet and shall be kept in a dust free manner;
13. That any trade or stock associated with the business must be stored inside a structure or behind a privacy fence;

14. **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;**
15. **That green infested MPB trees not be moved from July thru September unless trees are debarked; and,**
16. **That this Conditional Use Permit be reviewed in one (1) year or on a complaint basis to ensure that all conditions are being met.**

Commissioner Johnson also asked staff to contact the Fire Coordinator regarding the change to Condition #2.

Schmierer stated staff would contact the Fire Coordinator.

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

13. CONDITIONAL USE PERMIT / CU 12-09: Olde Glory Marketing/Toni Urbatch and Linda Sjolund – Agents. To allow for a temporary permit for retail sales of Class C fireworks in accordance with Sections 212 and 510 of the Pennington County Zoning Ordinance.

Lots A and B of Tract B of SW1/4 less Lot H3 of said Lot B, including Lot H2 of Tract B, Section 27, T2N, R8E, BHM, Pennington County, South Dakota.

Zeller reviewed the Staff Report indicating the applicant has applied for a Conditional Use Permit to operate a temporary fireworks sales stand on the property. The applicants have indicated the sales tent will be located on the front portion of the property of Wood Stock Supply. Zeller explained that the applicant had also set-up and operated from this same site last year.

Staff recommended approval of Conditional Use Permit 12-09 with the following eleven (11) conditions:

1. That proposed uses be limited to: retail sales of Class C fireworks;
2. That at the time of submittal of a Building Permit for the temporary structure, a new site plan be submitted showing the structure to be located a minimum of 25 feet from all property lines;
3. That a minimum of 30 parking spaces be provided, each parking space must be a minimum of 9 feet x 18 feet and be maintained in a dust free manner;
4. That a minimum of one port-a-potty be available to the public and be accessible for pumping and or removal when necessary;

5. That the applicant also ensures the safety of the customers by providing adequate security, fire protection, and a phone available to the public in case of an emergency;
6. That no parking be located within the highway right-of-way;
7. That the applicant obtains approved Sign Permits prior to any signs being placed on the property, in accordance with Section 312 of the Pennington County Zoning Ordinance;
8. That the applicant obtain all necessary permits from other governing bodies for operation of the Class C Fireworks, including, but not limited to: approval from the South Dakota State Fire Marshal's office and a Sales Tax License from the South Dakota Department of Revenue;
9. That temporary structures, such as tents and port-a-potties, only be erected when needed and not on a permanent basis;
10. That the applicant sign a Statement of Understanding, which is available at the Planning Office, prior to this Conditional Use Permit being valid; and,
11. That this Conditional Use Permit be automatically revoked once the sales tent has been removed from the property.

Commissioner Johnson asked staff if this Conditional Use Permit is similar to the applicant's one from the prior year.

Zeller stated yes.

Commissioner Johnson also discussed the applicant's Conditional Use Permit being reviewed on a yearly basis, instead of it being revoked each year.

Zeller indicated the applicant would also prefer this and commented that staff would like to add another condition referencing that the applicant meet all City, County, Federal, and State regulations regarding the storage/sale of the fireworks on-site.

Commissioner Johnson also recommended that Condition #11 be changed to reflect a review in one year or on a complaint basis.

Zeller noted that staff would like to review the Conditional Use Permit while it is in operation.

Ms. Linda Sjolund, applicant, appeared and stated they are in operation from June 27<sup>th</sup> through July 5<sup>th</sup> and they are also inspected by the State Fire Marshall each year for all of their locations.

Commissioner Johnson asked Ms. Sjolund if she is okay with the inspection process by the County and the recommend changes to the Conditions of Approval.

Ms. Sjolund said yes.

Discussion followed.

Commissioner Hall clarified the changes to the Conditions of Approval.

**Moved by Hall and seconded by Svejnieks to approve of Conditional Use Permit 12-09 with the following thirteen (13) conditions:**

- 1. That proposed uses be limited to: retail sales of Class C fireworks;**
- 2. That at the time of submittal of a Building Permit for the temporary structure, a new site plan be submitted showing the structure to be located a minimum of 25 feet from all property lines;**
- 3. That a minimum of 30 parking spaces be provided, each parking space must be a minimum of 9 feet x 18 feet and be maintained in a dust free manner;**
- 4. That a minimum of one port-a-potty be available to the public and be accessible for pumping and or removal when necessary;**
- 5. That the applicant also ensures the safety of the customers by providing adequate security, fire protection, and a phone available to the public in case of an emergency;**
- 6. That no parking be located within the highway right-of-way;**
- 7. That the applicant obtains approved Sign Permits prior to any signs being placed on the property, in accordance with Section 312 of the Pennington County Zoning Ordinance;**
- 8. That the applicant obtain all necessary permits from other governing bodies for operation of the Class C Fireworks, including, but not limited to: approval from the South Dakota State Fire Marshal's office and a Sales Tax License from the South Dakota Department of Revenue;**
- 9. That temporary structures, such as tents and port-a-potties, only be erected when needed and not on a permanent basis;**
- 10. That the applicant sign a Statement of Understanding, which is available at the Planning Office, prior to this Conditional Use Permit being valid;**

11. That the applicant meets all City, County, State, and Federal regulations regarding the storage/sale of the fireworks on-site;
12. That the applicant only be allowed to operate from June 27<sup>th</sup> through July 5<sup>th</sup> of each year; and,
13. That this Conditional Use Permit be reviewed by staff during the selling of fireworks and also be reviewed by the Planning Commission at the first meeting in July of each year or on a complaint basis.

All voting aye, the Motion carried 7 to 0.

14. COUNTY BOARD REPORT

The Board of Commissioners will hear the recommendations from the May 14, 2012, Planning Commission meeting on Thursday, June 7th.

15. ITEMS FROM THE PUBLIC

There were no items from the public.

16. ITEMS FROM THE STAFF

There were no items from staff.

17. ITEMS FROM THE MEMBERSHIP

Commissioner Johnson spoke of the items he will be discussing at the June 11<sup>th</sup> Planning Commission meeting: Overlay Districts for Water and Aquifers, “Nuisance” to be defined in the Zoning Ordinance, and Home Occupations.

Commissioner Hall spoke of the CUP notification process and wanted to know if renters can also be notified. She also spoke of updating the Comprehensive Plan.

Commissioner Landers spoke of the County inspecting tattoo businesses. Commissioner Buskerud provided a brief history of why the County handles the inspections each year for tattoo businesses.

Commissioner Zvejnieks discussed temporary events and suggested the number of days be changed to less than three.

18. DISCUSSION ITEMS

Commissioner Zvejnieks discussed the number of votes needed for a Motion to move forward to the Board of Commissioners.

19. ADJOURNMENT

**Moved by Landers and seconded by Coleman to adjourn.**

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

The meeting adjourned at **10:43 a.m.**

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Charlie Johnson, Chairperson