MINUTES
PENNINGTON COUNTY PLANNING COMMISSION
September 24, 2012 @ 9:00 a.m.
County Commissioners’ Meeting Room - Pennington County Courthouse

MEMBERS PRESENT: Sig Zvejnieks, Karen Hall, Bill McCollam, Lori Litzen, Barbara Landers, and Lyndell Petersen.

STAFF PRESENT: Dan Jennissen, Lysann Zeller, Mandi Schmierer, Kelsey Rausch, Valerie Jagim, Jeri Ervin, and Patrick Grode (State’s Attorney’s Office).

ROLL CALL

Jennissen introduced Valerie Jagim, the Environmental Planner, for the Planning and Zoning Department.

1. APPROVAL OF THE SEPTEMBER 10, 2012, MINUTES
   Moved by Hall and seconded by McCollam to approve the September 10, 2012, Planning Commission minutes. Vote: unanimous (6 to 0).

2. APPROVAL OF THE AGENDA
   Moved by Hall and seconded by Landers to approve the September 24, 2012, Planning Commission Agenda, with the removal of Item #9 from the Consent Calendar. Vote: unanimous (6 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. TELECOMMUNICATIONS FACILITY PERMIT REVIEW / TC 10-01: AT&T / Larry and Wanda Wiechmann. To review a 105 foot stealth monopine pole (pole with artificial pine branches) and equipment shelter in a Suburban Residential District in accordance with Sections 208 and 316 of the Pennington County Zoning Ordinance.

   Tract A, Finch Subdivision, Section 29, T1N, R7E, BHM, Pennington County, South Dakota.

   To recommend approval of the extension of Telecommunications Facility Permit / TC 10-01 with the following eight (8) conditions:

   1. That Building Permits be obtained for any structure exceeding 144 square feet and located on a permanent foundation, which include necessary site plans to be reviewed and approved by the Planning Director;
2. That the security fence, measuring at least seven (7) feet in height, be maintained around the radio tower and transmission building;

3. That the address continues to be properly posted in accordance with Ordinance #20;

4. That a minimum of two (2) off-street parking spaces continue to be provided. Each space shall measure at least nine (9) feet by eighteen (18) feet and be maintained in a dust free manner;

5. That emergency radio communication equipment be allowed on the tower as long as it does not interfere with the applicant’s broadcast equipment;

6. That proper setbacks from the property lines and all utilities be maintained for all structures located on the property;

7. That the Telecommunications Tower continues to meet the requirements and guidelines of Section 316 of the Pennington County Zoning Ordinance; and,

8. That this Telecommunications Facility Permit be reviewed upon a complaint basis only.

Vote: unanimous (6 to 0).

4. **PLANNED UNIT DEVELOPMENT REVIEW / PU 04-08:** 6S Properties, LLC. To review the existing Planned Unit Development which allows for up to five (5) residential lots and a neighborhood commercial area in accordance with Section 213 and Section 508 of the Pennington County Zoning Ordinance.

The unplatted portion of SE 1/4 south of Highway 44, Section 14, T1N, R6E, BHM, Pennington County, South Dakota.

To recommend approval of the extension of Planned Unit Development / PU 04-08 with the following eight (8) conditions:

1. That the approved uses of the Planned Unit Development shall be for up to five (5) stick-built, single-family residences with accessory structures and a neighborhood commercial area not to exceed four (4) acres in area;

2. Any new wastewater disposal systems installed after September 1, 2004, shall be an evapotranspiration system and any platting that may occur after September 1, 2004, shall include a note indicating this requirement;

3. That prior to a Building Permit being issued for a single-family residence or neighborhood commercial use, the applicant shall submit an engineered individual wastewater disposal system for review and approval by the Pennington County Environmental Planner;
4. That prior to any Building Permit being issued on the subject property, the applicant shall submit an Approach Permit to the S.D. Department of Transportation for review and approval;

5. The minimum setbacks for the Planned Unit Development shall be twenty-five (25) feet from all exterior property lines, fifty-eight (58) feet from all Section Lines, and ten (10) feet from any interior lot lines;

6. That the neighborhood commercial uses shall be limited to: medical doctor, dentist, optometrist, chiropractor, retail such as a food market, gift shop, pharmacy, bakery, video rental/sales, computer, etc., bank, barber/beauty shop, laundry and cleaning services including collection stations, shoe repair, professional and business offices and other uses providing those services will be conducted to the local community as determined by the Planning Director;

7. That all residences must meet the standards for stick-built as outlined in Section 204 and all commercial structures shall be stick-built; and,

8. That this Planned Unit Development be reviewed in five (5) years to determine that all conditions of approval are being met.

Vote: unanimous (6 to 0).

5. **CONDITIONAL USE PERMIT REVIEW / CU 08-10:** Verizon Wireless; K. W. Lindsay – Owner. To review a 300 foot communications tower and equipment shelter in a Highway Service District in accordance with Sections 210 and 510 of the Pennington County Zoning Ordinance.

Tract Lake (also in Section 28), Section 27, T2N, R5E, BHM, Pennington County South Dakota.

To recommend to continue the review of Conditional Use Permit / CU 08-10 to the October 22, 2012, Planning Commission meeting.

Vote: unanimous (6 to 0).

6. **CONDITIONAL USE PERMIT REVIEW / CU 10-05:** Daisey Enterprise; Jessie DeJong/Kristen Kilcoin. To review a RV Park and tent camping sites in a Highway Service District in accordance with Sections 210, 306, and 510 of the Pennington County Zoning Ordinance.

Lot 1R, Three Forks Subdivision, Section 22, T1S, R5E, BHM, Pennington County, South Dakota.

To recommend to continue the review of Conditional Use Permit / CU 10-05 to the October 8, 2012, Planning Commission meeting.

Vote: unanimous (6 to 0).
7. **CONDITIONAL USE PERMIT REVIEW / CU 10-07:** Kim Smith/I-90 Cold Storage. To review a 198 foot wind generator tower in a Heavy Industrial District in accordance with Sections 212-C and 510 of the Pennington County Zoning Ordinance.

Lot 1 of Tract B in N1/2SE1/4 and the west 606.12 feet of Lot H-2 of Tract B, Section 27, T2N, R8E, BHM, Pennington County, South Dakota.

To recommend to continue the review of Conditional Use Permit / CU 10-07 to the March 25, 2013, Planning Commission meeting.

Vote: unanimous (6 to 0).

8. **ROAD NAMING:** Marv Matkins. To name a 66-foot-wide access easement, providing access to properties located in Section 30, T1S, R5E, BHM, Pennington County, South Dakota. Gordon Collins Road.

To recommend approval of the Road Naming for Gordon Collins Road.

Vote: unanimous (6 to 0).

10. **LAYOUT PLAT / PL 12-34:** Parker Properties. To create Revised Lot 2R of Tract A of Home Sweet Home Placer MS 804 in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lot 2R of Tract A (also in Section 34), Home Sweet Home Placer MS 804, Section 33, T1S, R5E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Revised Lot 2R of Tract A, Home Sweet Home Placer MS 804, Section 33, T1S, R5E, BHM, Pennington County, South Dakota.

To recommend approval of Layout Plat / PL 12-34 with the following twelve (12) conditions:

1. That at the time of Minor Plat submittal, engineered road construction plans be submitted for Watson Parker Road or a Subdivision Regulations Variance be obtained waiving this requirement;

2. That at the time of Minor Plat submittal, the applicant submits percolation tests and soil profile information for all three lots to be reviewed and approved by the Environmental Planner or obtain approval of a Subdivision Regulations Variance waiving this requirement;

3. That at the time of submittal of the Minor Plat, Watson Parker Road be shown on the Plat document;

4. That prior to any work being done within the boundaries of the 100-year floodplain, a Floodplain Development Permit must be obtained;
5. That the Section Line Highway be improved to Ordinance 14 standards, or a Subdivision Regulations Variance obtained waiving this requirement;

6. That Watson Parker Road be improved to Local Road Standards, which includes 66 feet of right-of-way and 24 foot graveled driving surface with a minimum of four (4) inches of gravel or a Subdivision Regulations Variance be obtained waiving this requirement;

7. That at the time of Minor Plat submittal, the applicants submit topography at a five foot contour interval or a Subdivision Regulations Variance be obtained waiving this requirement;

8. That a cul-de-sac be installed on Watson Parker Road or a Subdivision Regulations Variance be obtained waiving this requirement;

9. That prior to filing the plat with Register of Deeds, an Operating Permit be obtained for proposed Revised Lot 2R;

10. That at the time of Minor Plat submittal, the Plat Heading be changed to either “Lot 2RA of Tract A...” or “Lot 2R Revised of Tract A...”;

11. That the applicant submits information on the water system that will be supplying water to the proposed lot or acquire approval of a Subdivision Regulations Variance waiving this requirement; and,

12. That approval of this Layout Plat does not constitute approval of any further applications to be submitted for the above-described property.

Vote: unanimous (6 to 0).

END OF CONSENT CALENDAR

9. **LAYOUT PLAT / PL 12-33:** Nina McBride. To create Lot 1 of Chase Subdivision in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: NE1/4SE1/4; Unplatted portion of Lot B; NW1/4SE1/4; and Lot B of SE1/4SE1/4 less Right-of-Way, Section 15, T2N, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot 1 of Chase Subdivision located in Section 15, T2N, R6E, BHM, Pennington County, South Dakota.

Commissioner Hall asked to have this item removed from the Consent Calendar to discuss the applicant creating a separate lot for the existing single-wide mobile home and questioned if the applicant understands the expense involved in creating the lot.
Zeller indicated that she did meet with the applicant prior to the meeting to discuss the conditions of the plat. Ms. McBride indicated she is aware of what requirements are needed in order to create the one lot.

Moved by Hall and seconded by McCollam to approval of Layout Plat / PL 12-33 with the following ten (10) conditions:

1. That prior to Final Plat approval, proposed Lot 1 either be rezoned to Low Density Residential or Suburban Residential District, depending on the lot size, or else a Lot Size Variance be obtained to allow the proposed lot to remain zoned General Agriculture District;

2. That a site plan be provided of the proposed lot at the time of Preliminary Plat submittal showing the location of all existing structures and utilities, including the on-site wastewater treatment system and well, in relation to the proposed lot lines to verify compliance with setback requirements and to determine if any easements need to be dedicated;

3. That a well easement be dedicated prior to Final Plat approval, if the proposed lot will continue to utilize a well located on the remainder of the larger parcel;

4. That an Operating Permit be obtained for the existing on-site wastewater treatment system prior to Final Plat approval;

5. That all junk and debris, including tires and pallets, located on the proposed lot be cleaned up to the satisfaction of the Ordinance Officer prior to Final Plat approval;

6. That seven (7) feet of additional right-of-way be dedicated for Nemo Road in accordance with the requirements for Minor Arterial Roads in the Subdivision Regulations or else a Subdivision Regulations Variance be obtained waiving this requirement;

7. That all changes to the plat, as identified by the Register of Deeds’ and Department of Equalization’s comments, be made by the surveyor prior to Preliminary Plat submittal;

8. That a Conditional Use Permit be obtained to allow the existing single-wide mobile home to be utilized as the primary residence on the proposed lot prior to Final Plat approval;

9. That the plat meet all requirements of Section 400.2 of the Subdivision Regulations, including the dedication of eight (8) foot utility and minor drainage easements along the interior of all lot lines and topographic information to be provided of the proposed lot at five (5) foot contour intervals, or else a Subdivision Regulations Variance be obtained waiving any of these requirements that are not met; and,
10. 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 6 to 0.

11. **CONDITIONAL USE PERMIT / CU 12-22**: Steve and Dorothy Wilkison. To allow multiple RV sites to be used on the subject property in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

The NE1/4SW1/4 less DW Hansen Tract, less Tract Sires and less Right-of-Way, Section 33, T1N, R4E, BHM, Pennington County, South Dakota.

(Continued from the September 10, 2012, Planning Commission meeting.

Jennissen provided a brief history of the subject property and noted this item had been continued from the September 10, 2012, Planning Commission meeting in order for the request to be readvertised as a Recreational Resort to allow the use of multiple RV sites to be used seasonally by the applicants.

Jennissen noted the applicant has indicated the site will be used by only family and friends, and not commercially. He further indicated the use is allowed through the Conditional Use Permit process and, if the applicants use the property as indicated, it should have a minimal impact on the surrounding properties.

Staff recommended approval of Conditional Use Permit #12-22 with the following fifteen (15) conditions:

1. That the family recreation vehicle park consists of a 40 foot by 100 foot pole barn and five (5) recreation vehicle sites;

2. That the recreational vehicle park be limited to private use and is not to be used commercially;

3. That the lot address be clearly posted on the property so it is visible from both directions along Mystic Road in accordance with Pennington County’s Ordinance #20;

4. That use of the family recreation vehicle park be limited to 180 days of the year;

5. That if the applicant intends to have any open fires or fire pits the appropriate permits must be obtained from South Dakota Forestry;

6. That the property remains free of debris and junk vehicles and the property, itself, and structures be well-maintained;

7. That the applicant has at least one (1) #20 ABC dry chemical fire extinguisher accessible at all times;
8. That a 25 foot setback be maintained for all structures located on the property or else an approved Setback Variance be obtained;

9. That a Building Permit be obtained for any structure exceeding 144 square feet or located on a permanent foundation, which includes the necessary site plans to be reviewed and approved by the Planning Director;

10. The Planning Director may allow additional development or construction, which is consistent with the existing development on this property. Significant changes in the use or impact on adjacent land uses as determined by the Planning Director shall require a review of this Conditional Use Permit;

11. That no additional tent camping be allowed;

12. That upon sale or transfer of the property, this CUP is automatically revoked;

13. That garbage storage and disposal shall be handled in such a manner so as not to create a health hazard, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution;

14. That four of the RV sites be removed (electrical and sewer hookup removed) from the property; and,

15. That this Conditional Use Permit be reviewed in one (1) year or on a complaint basis to verify that all conditions of approval are being met.

Commissioner Litzen asked if the applicants requested the use of only five of the nine sites.

Jennissen said no, the applicants would like to keep all of the RV sites.

Commissioner Hall questioned if there would be enforcement to make sure the property is not used commercially.

Jennissen explained that the Planning Office would address complaints from the surrounding property owners regarding the use of the property.

Commissioner Litzen spoke of the on-site wastewater system for the property and wanted to know if the capacity of it could handle all nine sites continuously throughout the year.

Jennissen stated the system was approved through SD DENR for the nine sites, for use by the church camp, and the size of the system is regulated by the proposed use of it at that time.

Mr. Steve Wilkison and Mrs. Dorothy Wilkison, applicants, appeared and stated they did speak with all the neighbors prior to the meeting in August and were told they did not have a problem with the initial application to use all the RV sites for family and friends. Mr. Wilkison also stated they are purchasing the property on a Contract for Deed and are not able to remove any of the RV sites until the property is paid in full. He indicated the
Realtor told him they could use all the RV sites, since they would be buying the property and that they could also rent it out for 14 days each calendar year. Mr. Wilkison further spoke of the Conditions of Approval and expressed concern with Condition #12, where the Conditional Use Permit is revoked upon sale or transfer of the property. Mr. Wilkison explained to the Planning Commission that there is an LLC in place between himself and his brothers and one-third interest would be transferred into a Living Trust and then their children would be the next owners of the property.

Commissioner Zvejnieks noted the Planning Commission has to look at the subject property as if the sites were not located on it.

Mr. Wilkison indicated the County did not have the sites removed when the prior Conditional Use Permits were revoked, and, if the County would like to go back on the previous owner, he could then look at voiding the Contract for Deed and recoup their money.

Discussion followed between the Planning Commission and the applicants regarding the use of the property and the use of the RV sites on the property.

Mr. Kenneth Hargens, neighbor, appeared and provided a background of the property and the area. He further expressed concern with drainage coming from the property, use of all nine RV sites, and he also spoke in opposition to the proposed request.

Mr. Dave Kaubisch, landowner to the south of the subject property, appeared and stated his parents and uncle live in the area. He lives in Arizona now and plans to retire to the area in the future. He spoke of the previous Conditional Use Permits applied for and uses allowed in a General Agriculture Zoning District. He spoke of a precedent being set to allow RV sites in the area. He noted that, if this is approved, their use and enjoyment of their property will be disrupted. He further stated he did not question the original use applied for by the Wilkison’s because he thought they would be changing the pole barn into a family lodge and only using one of the RV sites, not all nine sites.

Mr. Chris Hargens appeared and spoke in opposition to the proposed request. He expressed concern with dust on Mystic Road, the property being used as an RV campground, and also ATVs usage causing problems. He stated the RV sites should be removed and the applicants only use the pole barn on the property and convert it into a residence.

Mr. Carol Marso, neighbor, appeared and spoke of the previous revoked Conditional Use Permits, and she further spoke in opposition, indicating a precedent is being set.

Mr. Wilkison addressed the concerns of the public and the Planning Commission. He spoke of wildlife habits in the area, the wastewater system for the property, drainage/runoff, uses allowed in General Agriculture and Limited Agriculture Zoning Districts, their intended uses for the RV sites to allow family members to use the property, and a precedent being set.

Commissioner Petersen spoke of the Conditions of Approval and the Contract for Deed. He noted that the neighbors would monitor the site and if more than five sites were being
used, this would be turned in as a complaint to the Planning and Zoning Department; it would be the applicant’s responsibility to adhere to this.

Commissioners Zvejnieks noted the applicant objected to Condition #12 where the Conditional Use Permit is revoked upon sale or transfer of the property

Mr. Wilkison spoke of keeping the property in the family and allowing his children to continue use it, as well as immediate family members.

Jennissen indicated that the language of “outside the immediate family, this Conditional Use Permit is revoked” could be incorporated into the condition. He further discussed the Statement of Understanding, which includes the Conditions of Approval, and it is signed by the applicant and their signature is notarized.

Mr. Patrick Grode indicated that, if the property is transferred to an LLC, as Mr. Wilkison would like, this would actually revoke the Conditional Use Permit if the property is not being transferred to immediate family members. Mr. Grode recommended the condition include the language “the Conditional Use Permit is revoked, if the land is transferred beyond the applicant’s immediate family or a closely held corporation owned by the applicant’s immediate family.”

Commissioner Hall asked Mr. Wilkison if he intends to make the pole barn a family lodge.

Mr. Wilkison said it had been their intention, but not at this time.

Ms. Carol Kaubisch, landowner in the area, appeared and spoke in opposition of the proposed request. She indicated that she did not know all of the nine RV sites would be used by the applicants.

Mr. Dave Kaubisch spoke of the applicant’s proposed use and stated they originally only wanted to utilize the property 5 to 10 days at a time and not 180 days out of the calendar year.

Mr. Charlie Johnson, appeared, and discussed the previous approval of the Conditional Use Permits that are now revoked and the nine RV sites should have been removed when they were revoked. He expressed concern that, by approval of this Conditional Use Permit, the sites will always stay with the property and never be removed. He asked the Planning Commission to show caution with their recommendation for this property.

Moved by Landers and seconded by McCollam to approve of Conditional Use Permit 12-22 with five sites, modify the language in Condition #12 to incorporate additional language about revoking the Conditional Use Permit upon sale or transfer of property, and the applicant is not required to remove the additional sites because of the Contract for Deed; this would remove Condition #14.

Planning Commission recessed at 10:49 a.m.

Planning Commission reconvened at 11:00 a.m.
Commissioner Hall wanted to know if the applicants could camp in a RV on the property, if there were no RV sites, and the only structure on the property was the pole barn.

Jennissen said an RV can be used 180 days out of the year, with approval of a Conditional Use Permit.

Commissioner Hall noted the previous CUPs for this property had been revoked and she would like to see the RV sites removed. She added that, by allowing the RV sites to stay, is not an appropriate use for the property.

Commissioner Landers wanted to if the Conditional Use Permit is approved and then the property reverts back to the seller (original owner of the land), would the RV sites then be allowed to remain, since the Conditional Use Permit stays with the property.

Discussion followed regarding ownership of the property, a Contract for Deed, revocation of the two Conditional Use Permits, and the nine RV sites.

SUBSTITUTE MOTION: Moved by Landers and seconded by McCollam to approve of Conditional Use Permit 12-22 with five sites, modify the language in Condition #12 to incorporate that the Conditional Use Permit is only for the purchasers, the Wilkisons, and the Conditional Use Permit shall be revoked if it reverts to the seller of the property (the original holder of the land), and the applicant is not required to remove the additional sites because of the Contract for Deed, with the following fourteen (14) conditions:

1. That the family recreation vehicle park consists of a 40 foot by 100 foot pole barn and five (5) recreation vehicle sites;

2. That the recreational vehicle park be limited to private use and is not to be used commercially;

3. That the lot address be clearly posted on the property so it is visible from both directions along Mystic Road in accordance with Pennington County’s Ordinance #20;

4. That use of the family recreational vehicle park be limited to 180 days of the year;

5. That if the applicant intends to have any open fires or fire pits the appropriate permits must be obtained from South Dakota Forestry;

6. That the property remains free of debris and junk vehicles and the property, itself, and structures be well-maintained;

7. That the applicant has at least one (1) #20 ABC dry chemical fire extinguisher accessible at all times;
8. That a 25 foot setback be maintained for all structures located on the property or else an approved Setback Variance be obtained;

9. That a Building Permit be obtained for any structure exceeding 144 square feet or located on a permanent foundation, which includes the necessary site plans to be reviewed and approved by the Planning Director;

10. The Planning Director may allow additional development or construction, which is consistent with the existing development on this property. Significant changes in the use or impact on adjacent land uses as determined by the Planning Director shall require a review of this Conditional Use Permit;

11. That no additional tent camping be allowed;

12. That upon sale or transfer of the property, if the property is transferred beyond the applicant’s immediate family or a closely held corporation owned by the applicant’s immediately family, the Conditional Use Permit is revoked, and this Conditional Use Permit is only for the purchasers, Steve and Dorothy Wilkison, and the Conditional Use Permit shall be revoked if it reverts back to the seller of the property (the original holder of the land);

13. That garbage storage and disposal shall be handled in such a manner so as not to create a health hazard, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution; and,

14. That this Conditional Use Permit be reviewed in one (1) year or on a complaint basis to verify that all conditions of approval are being met.

Commissioner Zvejnieks stated he is opposed to the proposed use and would not support the Motion.

Commissioner Hall commented that she is also is opposed to the proposed use and would not support the Motion.

Commissioner Petersen discussed landownership, allowed uses as pertaining to Ordinances, and property owner rights.

Commissioner Zvejnieks called for a Roll Call Vote: Commissioners Litzen, Petersen, McCollam, and Landers voted yes. Commissioners Hall and Zvejnieks voted no. Motion passed 4 to 2.

12. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commissions’ recommendations from the September 21, 2012, Planning Commission meeting

13. ITEMS FROM THE PUBLIC
There were no items from the public.

14. **ITEMS FROM THE STAFF**

   A. **SD Planners Conference.** Jennissen reminded the Planning Commission of the upcoming SD Planners Conference being held in Lead starting October 23rd through the 25th.

   B. **Installer Certification Training.** Jennissen informed the Planning Commission that there will be an upcoming installer certification training scheduled for Thursday, October 4th at the Rushmore Plaza Civic Center.

15. **ITEMS FROM THE MEMBERSHIP**

   There were no items from the membership.

16. **DISCUSSION ITEMS**

   There were no discussion items.

17. **ADJOURNMENT**

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

   **All voting aye, the Motion carried 6 to 0.**

   The meeting adjourned at 11:22 a.m.

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   Chairperson, Sig Zvejnieks