

MINUTES
PENNINGTON COUNTY PLANNING COMMISSION
January 28, 2013 @ 9:00 a.m.

County Commissioners' Meeting Room - Pennington County Courthouse

MEMBERS PRESENT: Sig Zvejnieks, Bill McCollam, Jim Coleman, and Ken Davis.

STAFF PRESENT: Dan Jennissen, Jeri Ervin, and Patrick Grode (SAO).

ROLL CALL

1. APPROVAL OF THE JANUARY 11, 2013, MINUTES
Moved by McCollam and seconded by Davis to approve the January 11, 2013, Planning Commission minutes. Vote: unanimous (4 to 0).

2. APPROVAL OF THE AGENDA
Moved by Davis and seconded by McCollam to approve the January 28, 2013, Planning Commission Agenda, with the removal of Item #9 from the Consent Calendar. Vote: unanimous (4 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 88-09:** Minnie Chase. 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.

NE1/4 SE1/4; Unplatted PT of Lot B; NW1/4SE1/4; Lot B of SE1/4SE1/4 less RTY, Section 15, T2N, R6E, BHM, Pennington County, South Dakota.

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

To recommend to revoke Conditional Use Permit / CU 88-09 with the applicant's concurrence.

Vote: unanimous (4 to 0).

4. **CONDITIONAL USE PERMIT REVIEW / CU 09-04:** Robert and Shirley Akers. To review a home occupation for a home-based internet sales and services business in a Low Density Residential District in accordance with Sections 207 and 510 of the Pennington County Zoning Ordinance.

Lot 3, Vaughn Addition, Section 19, T2N, R8E, BHM, Pennington County, South Dakota.

To recommend approval of the extension of Conditional Use Permit / CU 09-04 with the following eight (8) 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 no alteration to any building shall indicate from the exterior that the building is being used in whole or part for any purposes other than that of a residential use;**
3. **That the firearm sales and service business be operated completely within the existing shop building;**
4. **That the business shall be operated by members of the family residing on the premises and no more than one (1) additional employee;**
5. **That no business sign be posted on the property;**
6. **That the applicant complies with all Local, State, and Federal regulations and permitting requirements;**
7. **That if any work is to be done within the limits of the 100-year floodplain, ensure an approved Floodplain Development Permit is obtained; and,**
8. **That this Conditional Use Permit be reviewed on a complaint basis only.**

Vote: unanimous (4 to 0).

5. **CONDITIONAL USE PERMIT REVIEW / CU 10-40:** Jayne Heying-Bilka. To review a home occupation in an accessory structure in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

The SE1/4SW1/4 less Lot 3 of RC Airport Sub #4 and less ROW, Section 6, T1N, R9E, BHM, Pennington County, South Dakota.

To recommend approval of the extension of Conditional Use Permit / CU 10-40 with the following eight (8) conditions:

1. That the lot address be properly posted so it is clearly visible from both directions of travel along Hidden Springs Road in accordance with Pennington County's Ordinance #20;
2. That the business shall be operated by members of the family residing on the premises and no more than one (1) additional employee;
3. That the home occupation only be conducted in the accessory shed structure or primary residence and no other structure on the property. Prior to the use of any other structures for the home occupation, this Conditional Use Permit must be amended;
4. That storage for the home occupation be kept entirely indoors;
5. That a minimum of three (3) off-street parking spaces be provided, and that each parking space shall not be less than one hundred sixty two square feet, or nine (9) feet by eighteen (18) feet, surfaced with gravel, concrete or asphalt and maintained in a dust-free manner;
6. That the home occupation appears secondary to the primary, residential use of the property and the residential character of the property be maintained;
7. That the applicant only sell goods off-premise and no on-premise retail sales be allowed; and,
8. That this Conditional Use Permit be reviewed in four (4) years or on a complaint basis to verify that all conditions of approval are being met.

Vote: unanimous (4 to 0).

6. **CONDITIONAL USE PERMIT REVIEW / CU 11-26:** Keith and Lona Lau; D.C. Scott Surveyors – Agent. To review two accessory structures prior to a principal structure on Lot 1 and to review three accessory structures prior to a principal structure on Lot 5 in accordance with Sections 207, 208, and 510 of the Pennington County Zoning Ordinance.

Lots 1 and 5, Lau Subdivision, Section 9, T1N, R6E, BHM, Pennington County, South Dakota.

To recommend approval of the extension of Conditional Use Permit / CU 11-26 with the following five (5) conditions:

1. That the lot address be properly posted in accordance with Pennington County's Ordinance #20 so it is clearly visible at the intersection of the driveway way;

2. **No commercial activity shall be permitted;**
3. **That the property remains free of debris and junk vehicles;**
4. **That this Conditional Use Permit is not valid until the applicant signs the Statement of Understanding, which is available at the Planning Office; and,**
5. **That this Conditional Use Permit be reviewed in two (2) years or on a complaint basis to verify that all conditions of approval are being met.**

Vote: unanimous (4 to 0).

7. **CONDITIONAL USE PERMIT REVIEW / CU 12-15:** Kari Fruechte. To allow for a Vacation Home Rental in a Limited Agriculture District in accordance with Sections 206, 319, and 510 of the Pennington County Zoning Ordinance.

Lot 1, Block 3, Pactola Estates, Section 17, T1N, R5E, BHM, Pennington County, South Dakota.

To recommend approval of the extension of Conditional Use Permit / CU 12-15 with the following six (6) conditions:

1. **That a minimum of three (3) off-street parking spaces continues to be provided and each parking space shall not be less than 162 square feet, nor less than nine feet (9') by eighteen feet (18'), surfaced with gravel, concrete or asphalt and maintained in a dust free manner;**
2. **That the address continues to be properly posted on both the residence and at the approach so it is visible in both directions in accordance with Pennington County's Ordinance #20;**
3. **That the applicant complies with South Dakota Administrative Rule 44:02:08, which regulates Vacation Home Rentals;**
4. **That the applicants obtain all the necessary permits from the State pertaining to the use of the Vacation Home Rental;**
5. **That the applicant complies with the Performance Standards outlined in Section 319 of the Zoning Ordinance, which regulates Vacation Home Rentals; and,**
6. **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.**

Vote: unanimous (4 to 0).

8. **CONDITIONAL USE PERMIT REVIEW / CU 08-06:** Robert and Melody Riggins. To review a single-wide manufactured home as a temporary residence while constructing a stick-built home in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

SW1/4SE1/4 of Section 12, T1N, R9E, BHM, Pennington County, South Dakota.

To recommend approval of the extension of Conditional Use Permit / CU 08-06 with the following six (6) 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 existing access off of Longview Road be utilized for the new single-family residence;**
3. **That the address be properly posted on both the residence and the approach from Longview Road in accordance with Pennington County's Ordinance #20;**
4. **That once the new single-family residence is habitable, the applicant obtains an approved Removal Permit for the existing residence prior to its removal from the property;**
5. **That the proper setbacks of 25 feet from all property lines be maintained for any structures on the property; and,**
6. **That this Conditional Use Permit be reviewed on March 25, 2013, to verify that the existing SWMH has been removed from the property or upon a complaint basis.**

Vote: unanimous (4 to 0).

END OF CONSENT CALENDAR

9. **MINING PERMIT / MP 12-19:** Ray French; Duane Pankratz – Owner. To allow for the excavation of gravel from the subject property to be hauled off-site in a Limited Agriculture District in accordance with Sections 206 and 507 of the Pennington County Zoning Ordinance.

Tract 2 of Lot B and C, Elkhorn Placer #1502, Section 10, T2S, R6E, BHM, Pennington County, South Dakota.

Commissioner Zvejnieks asked to have this item removed from the Consent Calendar to discuss the proposed project.

Jenissen reviewed the Staff Report indicating the applicant has applied for a Mining Permit to remove fill from the property in order to excavate for a pond that will possibly be utilized as a trout fishing pond in the future. The applicant has also indicated the fill will be hauled off-site to property his owns by Keystone.

Staff recommended approval of Mining Permit / MP 12-19 with the following fifteen (15) conditions:

1. That erosion control measures be implemented and maintained around the stockpile and barrier protection measures be installed to prevent sediment from leaving the site;
2. That the applicant continually meets the requirements of the Floodplain Development Permit;
3. That tracking control measures (10 feet wide by 50 feet in length) be implemented from the approach, off of the access easement, back to the stockpile location;
4. That any natural drainage ways and paths be continually maintained;
5. That all grading activities meet state and federal requirements, including, but not limited, to floodplains, erosion control, and water quality;
6. That the property be inspected by the owner of the property and/or contractor, a minimum of once, every seven days, and within 24 hours following storm events of at least 0.5" or a snowmelt event that causes surface erosion; and, following completion of Final stabilization and/or remediation;
7. That records of all on-site inspections performed by the property owner and/or contractor be kept with the Site Plan or (SWPPP) on-site and available to the Planning Department and/or County Drainage Engineer upon request;
8. That dust control measures be implemented to prevent dust from leaving the site and impacting the adjacent properties and/or street(s);
9. That upon completion of the project, the disturbed areas shall be reclaimed in accordance with Section 507-A(5)(c) of the Pennington County Zoning Ordinance;

10. That if the applicant is to sell any material from the site, the appropriate permits must be obtained from the appropriate federal, state and local agencies;
11. That if the property is to be used commercially for the tourist industry (i.e. fishing pond), the property be rezoned to Highway Service and all appropriate permits be obtained from federal, state and local agencies;
12. That warning signs be located from both directions to warn of trucks hauling;
13. That an Access Permit be obtained for any change of use to the property from the South Dakota Department of Transportation (Copy of Permit is enclosed);
14. That if any work takes place within Battle Creek, the applicant obtain approval of a new Floodplain Development Permit and appropriate permits from the Army Corp of Engineers; and,
15. That this Construction Permits expires one (1) year from the approval date.

Commissioner Zvejnieks expressed concern the applicant may sell fill from the site and further questioned what requirements are in place that the applicant will need to meet, if this does happen.

Jennissen indicated that staff can check on the property, during routine site visits, and the surrounding property owners can file a complaint with the Planning Department. Jennissen also stated the applicant would need to obtain a Mining License, as well as additional permits through SD DENR, to sell fill from the site.

Commissioner McCollam wanted to know where the gravel will be hauled off-site to and what type of erosion control measures are in place for the property the fill will be taken to.

Jennissen stated he did not know the site where the applicant intends to take the fill to.

Commissioner McCollam further spoke of truck traffic coming and going from the site and also expressed concern that there is no way of knowing if this would be a commercial operation.

Commissioner Coleman discussed the applicant placing a sign on the property indicating material is being removed from the property and that it is not for sale. This would alert the neighbors and make them aware of what is taking place at the property.

Jennissen said this could be included in the Conditions of Approval.

Discussion followed.

Moved by McCollam and seconded by Coleman to continue Mining Permit / MP 12-19 to the February 11, 2013, Planning Commission in order for the applicant to appear and address concerns of the Planning Commission.

All voting aye, the Motion carried 4 to 0.

10. COUNTY BOARD REPORT

No items from the January 14, 2013, Planning Commission meeting needed to be forwarded to the upcoming Board of Commissioners meeting on February 5, 2013.

11. ITEMS FROM THE PUBLIC

- A. Ms. Nina McBride spoke of the requirements she needed to meet, including notifying property owners within 500 feet of her property, when platting her property and applying for a Conditional Use Permit. She further discussed, with the Planning Commission, that applicants who apply for Mining Permits / Construction Permits do not have to notify the surrounding property owners.

Jennissen explained the process with the Planning Commission when a person subdivides their property and also when an applicant applies for a Conditional Use Permit or rezones their property.

- B. Mr. Eric Hoff, Western Construction, appeared and spoke of their Mining Permit application they recently submitted for a site located off of Long View Road, near the Rapid City Regional Airport. He asked that they be allowed to continue to operate until they obtain approval through the Planning Commission. Mr. Hoff added that they have obtained the necessary permits and approval through the State, but were unaware they also needed to obtain a permit through Pennington County.

Mr. Shailesh Patel, Project Manager, also appeared and indicated it was an oversight by them to obtain the proper permit through Pennington County. He stated the project is a public improvement project and wanted to know if they could continue with their operation, prior to approval.

Commissioner Zvejnieks stated the Planning Commission cannot take action or make a Motion on this item, as it would have to have been on the Agenda for discussion and approval purposes.

Jennissen added that the Planning Department just received the application in the office on Thursday and it was routed to the different agencies which may be affected by the project.

Commissioner Davis wanted to know how much fill will be removed from the site.

Mr. Hoff said about 50,000 tons.

Commissioner Zvejnieks further stated he would abstain from voting on this item, because of a conflict of interest.

Mr. Patrick Grode, Deputy States Attorney, appeared and stated the Planning Commission cannot vote on an item which is not on the Agenda. This is not allowed, based upon public meetings law, and proper notification procedures.

Discussion followed.

Commissioner Zvejnieks clarified with the applicants that action cannot be taken on the item at this time and it will be heard at the February 11, 2013, Planning Commission meeting.

12. ITEMS FROM THE STAFF

There were no items from staff.

13. ITEMS FROM THE MEMBERSHIP

There were no items from the membership.

14. DISCUSSION ITEMS

There were no discussion items.

15. ADJOURNMENT

Moved by Davis and seconded by Zvejnieks to adjourn.

All voting aye, the Motion carried 4 to 0.

The meeting adjourned at **9:31 a.m.**

Chairperson, Sig Zvejnieks