

**MINUTES**  
**PENNINGTON COUNTY PLANNING COMMISSION**  
**February 11, 2013 @ 9:00 a.m.**

County Commissioners' Meeting Room - Pennington County Courthouse

MEMBERS PRESENT: Sig Zvejnieks, Jim Coleman, Karen Hall, Barbara Landers, Lori Litzen, Bill McCollam, and Don Holloway.

STAFF PRESENT: Dan Jennissen, Lysann Zeller, Mandi Schmierer, Kelsey Rausch, and Patrick Grode (SAO).

ROLL CALL

1. APPROVAL OF THE JANUARY 28, 2013, MINUTES  
**Moved by McCollam and seconded by Coleman to approve the January 28, 2013, Planning Commission minutes. Vote: unanimous (7 to 0).**
2. APPROVAL OF THE AGENDA  
**Moved by McCollam and seconded by Hall to approve the February 11, 2013, Planning Commission Agenda, with the removal of Item #5 from the Consent Calendar. 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 99-47:** Douglas Houk. To review a manufactured home as a caretaker's residence in a Low Density Residential District in accordance with Section 204-D of the Pennington County Zoning Ordinance.

Lot 3R, Houk's Subdivision, Section 15, T1N, R8E, BHM, Pennington County, South Dakota.

**To recommend approval of the extension of Conditional Use Permit / CU 99-47 with the following four (4) conditions:**

1. **That the addition of accessory structures, (i.e., garages additions to the manufactured home, etc.) may be allowed through the issuance of a Building Permit which will include necessary site plans to be reviewed and approved by the Planning Director;**
2. **That once Don Houk no longer needs constant assistance or no longer resides on the property, the manufactured home be removed;**

3. That the 28 foot by 60 foot manufactured home to be used as the caretaker's residence continue to have a peaked, non-reflective roof and house-type siding; and,
4. That this Conditional Use Permit be reviewed in two (2) years or on a complaint basis.

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

4. **CONDITIONAL USE PERMIT REVIEW / CU 10-35:** Sindy Roscamp. To review a single-wide mobile home to be used as a single-family residence in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

The N1/2NE1/4; NE1/4NW1/4 Less Highway Right-of-Way; That Part of NW1/4NW1/4 Lying East of Highway 40 Right-of-Way; all in Section 14, T1S, R10E, BHM, Pennington County, South Dakota.

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

**To recommend the review of Conditional Use Permit / CU 10-35 be continued to the February 25, 2013, Planning Commission meeting.**

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

6. **MINOR PLAT / PL 13-02:** Hills Septic; First Interstate Bank – Owner. To create Common Area 17 and Lot 47R of Block 1 of Canyon Springs Preserve in accordance with Section 400.3 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lot 47, Block 1, Canyon Springs Preserve, Section 22, T2N, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Common Area 17 and Lot 47R of Block 1 of Canyon Springs Preserve, Section 22, T2N, R6E, BHM, Pennington County, South Dakota.

**To recommend approval of Minor Plat / PL 13-02 with one (1) condition:**

1. That prior to filing the plat with Register of Deeds, the note “ENTIRE COMMON AREA 17 TO BE FOR SANITARY SEWER PURPOSES. RESIDENTIAL STRUCTURES ARE PROHIBITED” be located on the plat.

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

**END OF CONSENT CALENDAR**

5. CONDITIONAL USE PERMIT / CU 13-01: Loretta Daigle / Lazy Rocking D, LLC; Rushmore Vacation Rentals – Local Contact. To allow for a Vacation Home Rental in a General Agriculture District in accordance with Sections 205, 319, and 510 of the Pennington County Zoning Ordinance.

Lot 1 of the NW1/4NE1/4, Section 22, T2S, R4E, BHM, Pennington County, South Dakota.

Commissioner Hall requested to remove this item from the Consent Calendar. She expressed concern that there is not a telephone landline available at the property.

Zeller explained that this is not a requirement of VH Rentals, under the Zoning Ordinance, and she further noted that this was not required in the conditions for the other approved VH Rentals. However, if the Planning Commission is requesting this to be added, staff does not have any issues with adding it, even though there is cell phone service in the area.

Commissioner Coleman also expressed concern with a cell phone provider not having adequate coverage for the area, particularly for renters from out-of-state with different providers than ATT and Verizon.

Ms. Daigle, applicant, stated she is not opposed to providing a landline.

Discussion followed.

**Moved by Hall and seconded by Coleman to approve Conditional Use Permit / CU 13-01 with the following nine (9) conditions, including an additional condition requiring that a landline or other phone service be provided at the property:**

- 1. That the maximum overnight occupancy, based on DENR's approval, be limited to twelve (12) people and the maximum daytime occupancy be limited to eighteen (18) people;**
- 2. That the applicant maintains current licenses with the South Dakota Department of Health (Vacation Home License) and the Department of Revenue (Sales Tax License) and that copies of the Licenses be provided to the Planning Department prior to operation of the Vacation Home Rental;**
- 3. That a minimum of five (5) off-street parking spaces be provided on-site, each measuring a minimum of nine (9) by eighteen (18) feet and maintained in a dust-free manner;**
- 4. That an interior informational sign be posted in accordance with the requirements of Section 319-G., during operation of the residence as a VHR;**

5. **That the lot address be posted at all times so it is clearly visible from White Horse Road, in accordance with Ordinance #20;**
6. **That the applicant ensures the VHR is operated in accordance with the requirements of Section 319-F. (Performance Standards) at all times;**
7. **That a Building Permit be obtained for the decking around the garage, in which a penalty fee will be assessed, prior to operation of the VHR;**
8. **That the applicant provides a landline or other phone service (for emergency communication) for the VHR; and,**
9. **That this Conditional Use Permit be reviewed in June of 2014 or on a complaint basis to verify that all conditions of approval are being met.**

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

7. 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.

(Continued from the January 28, 2013, Planning Commission meeting.)

Jennissen reviewed the applicant's request to excavate gravel from the property for the purposes of creating a pond. This item had been continued from the January 28<sup>th</sup> Planning Commission meeting in order for the applicant to appear and address concerns of the Planning Commission.

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 McCollam expressed concern that there is no way to determine if the site is being used for commercial purposes, rather than private use, and he further questioned where the material is being hauled off-site to.

Mr. Ray French, applicant, stated he can provide documentation to show where the material is being hauled to. He said the material is not being sold for commercial purposes and it will be used as fill for a road.

Commissioner Holloway wanted to know how long the activity will occur.

Mr. French said three years, and the intent was to make a handicapped accessible fishing pond, but the requirements they needed to meet have made them rethink their decision.

Discussion continued between the applicant and the Planning Commission regarding the use of the property and Battle Creek.

**Moved by Landers and seconded by McCollam to approve 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.**

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

8. MINING PERMIT / MP 13-02: Western Construction, Inc.; Tom Lien – Agent. To excavate, extract, and process gravel in a General Agriculture District in accordance with Sections 205 and 507 of the Pennington County Zoning Ordinance.

E1/2 of Section 18, T1N, R9E, BHM, Pennington County, South Dakota.

Jennissen provided background information on the request to excavate and extract gravel from the property. He indicated the proposed operation will occur for a minimum of five (5) years and the applicant will need to reapply every year to continue the mining operation. The material removed from the property will be used in conjunction with the work occurring on the Box Elder Sanitary Sewer property. Jennissen also noted a correction to the Staff Report indicating the property is not in the 100-year floodplain. Jennissen further stated he would be adding a condition that would limit the height of the stockpiles on the property, including limiting the height of the equipment stored on the property.

Staff recommended approval of Mining Permit / MP 13-02 with the following seventeen (17) conditions:

1. That the applicant obtain a completed Storm Water Pollution Prevention Plan for disturbing more than one (1) acre of soil from the Department of Environment and Natural Resources prior to the start of construction;

2. That tracking control (a minimum of 10' by 20' by 6" rock bed) must be implemented at the entrance onto Longview Road as required by Section 507-A of the Pennington County Zoning Ordinance;
3. That at the time the applicant starts hauling material on County Roads; a Haul Road agreement must be obtained from the Pennington County Highway Department;
4. That any natural drainage ways and paths be continually maintained and culverts added as necessary, in accordance with Pennington County Ordinance #14;
5. That erosion control measures be implemented around the stockpiles to prevent sediment from leaving the site and, in addition, any disturbed areas must have acceptable erosion control measures to prevent surface erosion and sediment leaving the site;
6. That site inspections be done at least weekly during the period of construction or monthly if no construction activity is occurring on the site (temporary stabilization is required if activity on the site is dormant for more than 21 days) and within 24 hours following a storm event of at least 0.5" or a snowmelt event that causes surface erosion and weekly site inspection records shall be submitted to the Planning Director on a monthly basis during the period of construction;
7. That the site shall be revegetated as required in Section 507-A(5)(c);
8. That an address be posted in large numbers at the entrance to the pit in accordance with Ordinance #20;
9. That any permanent development should be designed so as not to interfere with any future street alignments;
10. That prior to commencement of any further mining, the applicant obtain a General Permit for Storm Water Discharges Associated with Industrial Activities;
11. That all debris and materials must be secured and contained on site in a manner that prevents a safety hazard to persons, property, and/or equipment on the airport;
12. That all dust, smoke and particulate matter must be controlled in a manner that does not impact airport operations or pose a safety hazard;
13. That the airport waterline project is not adversely impacted;
14. That self-contained toilets be provided on-site: one (1) unit per 50 employees. The self-contained toilets must meet all State and County regulations, including setbacks. The method and schedule of disposal of the solid waste, in compliance



with State and local rules and regulations, must be provided by the applicant in writing;

15. That all stockpiles of material on the subject property, including equipment being stored on site, shall maintain a minimum height of \_50 feet.
16. That the applicant sign a statement of Understanding prior to commencement of the mining activities; and,
17. That this Mining Permit be reviewed in one (1) year or upon a complaint basis.

Commissioner Zvejnieks stated he would abstain from voting on this item.

Commissioner Coleman questioned if the FAA Form 7460 has been applied for by the applicants and if staff is waiting to hear the response regarding that form.

Jennissen stated the applicants have submitted the form and a letter has been received by staff from the FAA in reference to the form. The applicant cannot go above a certain height for the stockpile of material and equipment height, and, if they do, the applicants are required to meet certain conditions.

Commissioner Holloway questioned the route the applicants will be using to haul the material off-site.

Mr. Eric Hoffmann, agent, appeared and stated they will use the route from Long View Road to Radar Hill Road and Airport Road will not be used.

**Moved by Litzen and seconded by Hall to approve of Mining Permit / MP 13-02 with the following seventeen (17) conditions:**

- 1. That the applicant obtain a completed Storm Water Pollution Prevention Plan for disturbing more than one (1) acre of soil from the Department of Environment and Natural Resources prior to the start of construction;**
- 2. That tracking control (a minimum of 10' by 20' by 6" rock bed) must be implemented at the entrance onto Longview Road as required by Section 507-A of the Pennington County Zoning Ordinance;**
- 3. That at the time the applicant starts hauling material on County Roads; a Haul Road agreement must be obtained from the Pennington County Highway Department;**
- 4. That any natural drainage ways and paths be continually maintained and culverts added as necessary, in accordance with Pennington County Ordinance #14;**

5. That erosion control measures be implemented around the stockpiles to prevent sediment from leaving the site and, in addition, any disturbed areas must have acceptable erosion control measures to prevent surface erosion and sediment leaving the site;
6. That site inspections be done at least weekly during the period of construction or monthly if no construction activity is occurring on the site (temporary stabilization is required if activity on the site is dormant for more than 21 days) and within 24 hours following a storm event of at least 0.5" or a snowmelt event that causes surface erosion and weekly site inspection records shall be submitted to the Planning Director on a monthly basis during the period of construction;
7. That the site shall be revegetated as required in Section 507-A(5)(c);
8. That an address be posted in large numbers at the entrance to the pit in accordance with Ordinance #20;
9. That any permanent development should be designed so as not to interfere with any future street alignments;
10. That prior to commencement of any further mining, the applicant obtain a General Permit for Storm Water Discharges Associated with Industrial Activities;
11. That all debris and materials must be secured and contained on site in a manner that prevents a safety hazard to persons, property, and/or equipment on the airport;
12. That all dust, smoke and particulate matter must be controlled in a manner that does not impact airport operations or pose a safety hazard;
13. That the airport waterline project is not adversely impacted;
14. That self-contained toilets be provided on-site: one (1) unit per 50 employees. The self-contained toilets must meet all State and County regulations, including setbacks. The method and schedule of disposal of the solid waste, in compliance with State and local rules and regulations, must be provided by the applicant in writing;
15. That all stockpiles of material on the subject property, including equipment being stored on site, shall maintain a minimum height of 50 feet.
16. That the applicant sign a statement of Understanding prior to commencement of the mining activities; and,

**17. That this Mining Permit expires one (1) year from the approval date.**

**All voting, the Motion carried 6 to 0. Commissioner Zvejnieks abstained from voting.**

9. COUNTY BOARD REPORT

No items from the January 28, 2013, Planning Commission meeting needed to be forwarded to the Board of Commissioners meeting on February 5, 2013.

10. ITEMS FROM THE PUBLIC

There were no items from the public.

11. ITEMS FROM THE STAFF

A. Building Permit Report. Jennissen reviewed the Building Permit Report for January 2013.

12. ITEMS FROM THE MEMBERSHIP

There were no items from the membership.

13. DISCUSSION ITEMS

Commissioner Zvejnieks discussed goals and/or items the Planning Commission would like to see addressed this year - Vacation Home Rentals, Horse Boarding Facilities, etc.

Commissioner Litzen suggested updating the Comprehensive Plan.

Commissioner Zvejnieks asked the Planning Commission and staff to make a list of items to be discussed at a future meeting. Recommendations will then be made to proceed with any changes.

14. ADJOURNMENT

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

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

The meeting adjourned at **9:40 a.m.**

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Chairperson, Sig Zvejnieks