

MINUTES
PENNINGTON COUNTY PLANNING COMMISSION
February 25, 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, Jeri Ervin, Rex Fackrell, and Patrick Grode (SAO).

ROLL CALL

1. APPROVAL OF THE FEBRUARY 11, 2013, MINUTES
Moved by Hall and seconded by McCollam to approve the February 11, 2013, Planning Commission minutes. Vote: unanimous (7 to 0).
2. APPROVAL OF THE AGENDA
Moved by Landers and seconded by Hall to approve the February 25, 2013, Planning Commission Agenda. Vote: unanimous (7 to 0).

CONSENT CALENDAR

The following items have been placed on the Consent Calendar for action to be taken on all items in accordance with staff's recommendation by a single vote. Any item may be removed from the Consent Calendar, by any Planning Commissioner, staff member, or audience member for separate consideration. The findings of this Planning Commission are recommendations to the Pennington County Board of Commissioners who will make the final decision.

3. **CONDITIONAL USE PERMIT REVIEW / CU 11-02:** Jeff and Cheryl DeVeney. To review two internally, illuminated, on-premise signs within 1,500 feet of a residential zoning district/dwelling unit in a Highway Service District in accordance with Sections 210 and 510 of the Pennington County Zoning Ordinance.

Lot 3 of Lot D, Murray Subdivision, Section 21, T1S, R5E, BHM, Pennington County, South Dakota.

To recommend approval of the extension of Conditional Use Permit / CU 11-02 with the following eleven (11) conditions:

1. **That this Conditional Use Permit only allows for one internally, illuminated, on-premise sign within 1,500 feet of a residential zoning district/dwelling unit in a Highway Service District;**

2. That access to the site be taken from Highway 385 and not from Penalua Gulch Road;
3. That all lighting be installed and maintained so as to minimize spillage of light outside of the sign face so as not to create a nuisance and the sign must be effectively shielded to prevent beams or rays from being directed toward any portion of the traveled ways, and must not be of such intensity or brilliance to cause glare or impair the vision of the driver of any motor vehicle or otherwise interfere with any driver's operation of a motor vehicle;
4. That the sign must meet a minimum of a five (5) foot setback from the front property line and ten (10) foot setbacks from all side property lines. Also, that no part of the sign or infrastructure used for lighting be placed in a right-of-way;
5. That a Sign Permit be obtained for any on-premise signs, which requires a site plan to be reviewed and approved by the Planning Director;
6. That the sign conform to all regulations in Section 312 of the Pennington County Zoning Ordinance;
7. That the sign shall be painted and maintained in muted colors as to blend into the natural surroundings;
8. That the sign be maintained so as to have an aesthetically pleasing appearance at all times and not appear dilapidated;
9. That no debris, such as wood, posts, metal or other materials, from the construction or maintenance of the sign shall be left at the location or the vicinity of the sign;
10. That only on-premise advertising be allowed on the existing sign and no off-premise advertising is allowed unless an approved Zoning Variance is obtained from the Pennington County Board of Commissioners waiving the distance to the nearest dwelling unit requirement and this CUP is amended to allow for an off-premise sign; and,
11. That this Conditional Use Permit be in six (6) months or on a complaint basis.

Vote: unanimous (7 to 0).

4. **CONDITIONAL USE PERMIT REVIEW / CU 12-01:** Eric and Amy Wagner. To review a gunsmithing business as a home occupation in a Suburban Residential District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance.

Lot 4, Block 5, Pine Cliff Subdivision, Section 31, T2N, R6E, BHM, Pennington County, South Dakota.

To recommend approval of the extension of Conditional Use Permit / CU 12-01 with the following eight (8) conditions:

1. **That the business shall be operated by members of the family residing on the premises and that the addition of another employee would require a review of this Conditional Use Permit and the specifications of the on-site wastewater treatment system to be reviewed and approved by DENR;**
2. **That the home occupation, including all associated storage, be conducted entirely indoors;**
3. **That the home occupation appears secondary to the primary, residential use of the property, and the residential character of the property be maintained;**
4. **That no on-premise retail sales be allowed;**
5. **That the applicant comply with all applicable local, state, and federal laws and a current copy of the applicant's Federal Firearms License from the U.S. Bureau of ATF be kept on file with the Planning Department;**
6. **That the Conditional Use Permit shall be revoked upon sale or transfer of the subject property;**
7. **That any modification or expansion of the home occupation shall require the Conditional Use Permit to be amended; and,**
8. **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 (7 to 0).

5. **CONDITIONAL USE PERMIT / CU 13-03:** Philip and Colleen Hunter. To allow accessory structures (wood shed and a greenhouse) without a principal structure in a Limited Agriculture District in accordance with Sections 206 and 510 of the Pennington County Zoning Ordinance.

Lot 6 of Engberg Subdivision, Section 6, T2S, R6E, BHM, Pennington County, South Dakota.

To recommend approval of Conditional Use Permit / CU 13-03 with the following seven (7) conditions:

- 1. That the approach be constructed in accordance with the Approach Permit approved by the County Highway Department;**
- 2. That a lot address be assigned for the property and the applicant post it so it is clearly visible from both directions of travel along Old Hill City Road in accordance with Pennington County Ordinance #20;**
- 3. That the property remain free of debris and junk vehicles;**
- 4. That the property be used for personal use only and no commercial-type uses;**
- 5. That if any plumbing is to be installed in the accessory structures, it be hooked into an approved means of wastewater disposal. If an on-site wastewater treatment system is to be installed, an approved On-Site Wastewater Construction Permit must be obtained;**
- 6. That the applicant obtain any necessary Building Permits for the accessory structures prior to construction; and,**
- 7. 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 (7 to 0).

END OF CONSENT CALENDAR

6. 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 February 11, 2013, Planning Commission meeting.)

Schmierer reviewed the Staff Report and indicated this item has been continued from the December 10, 2012, and February 11, 2013, Planning Commission meetings in order for the applicants to decide their intentions for the single-wide mobile home. To date, staff

has not heard from the applicants since December of 2012. Schmierer also stated the Building Permit and Septic Permit have expired and a septic system has not yet been installed on the property.

Staff recommended Conditional Use Permit 10-35 be revoked and the single-wide mobile home be removed from the property no later than March 21, 2013. If the single-wide mobile home is not removed by March 21, 2013, the matter will be turned over to the State's Attorney's Office for legal action.

Commissioner Hall asked if there is someone living in the single-wide mobile home.

Schmierer said no, and further noted the applicants live in Hermosa and come to the property periodically to check on their cattle.

Commissioner Holloway clarified that a message was left with the applicants on an answering machine.

Schmierer said she left a message twice for the applicants to contact her.

Moved by Landers and seconded by Hall to revoke Conditional Use Permit 10-35 and the single-wide mobile home be removed from the property no later than March 21, 2013. If the single-wide mobile home is not removed by March 21, 2013, the matter shall be turned over to the State's Attorney's Office for legal action.

All voting aye, the Motion carried 7 to 0.

7. CONDITIONAL USE PERMIT / CU 13-02: Dan and Linda Pulse. To allow bicycle rentals and a shuttle service as a home occupation in a Low Density Residential District in accordance with Sections 207-C-1 and 510 of the Pennington County Zoning Ordinance.

The Balance of Lots 52-54 of Burns Placer #697, Section 14, T1S, R4E, BHM, Pennington County, South Dakota.

Jennissen reviewed the Staff Report indicating the applicants have applied for a home occupation to allow bicycle rentals and a shuttle service for the Mickelson Trail on the subject property. Jennissen noted that the applicant had previously operated his business in Hill City and now would like to operate the business at his residence. The business will consist of 100 shuttle rides per year to and from the property to different trailheads along Mickelson Trail and will average 415 passengers annually. The applicant has also indicated the hours of operation will be from 8 a.m. to 5 p.m., with all shuttles ceasing by 1 p.m., and the business will be operated by the applicant, his wife, and son and no outside employees. Jennissen also indicated that activity occurring on the property will consist of a parking area, a bicycle rental area, bicycle storage buildings, and storage for the shuttle bus.

Jennissen further explained that the Conditional Use could have an impact on the surrounding properties, given the commercial nature or the proposed use. The increase in traffic, people on the property and parking of automobiles could certainly have an effect on the adjacent properties. Also, access to the Mickelson trail could pose a hazard to both bicyclists and traveling public. The proposed use is not typical of a use allowed in a residential district. However, the property is surrounded by Forest Service on three sides, it is located along the Mickelson Trail, and is within close proximity of a number of Vacation Home Rentals.

Staff recommended denial of Conditional Use Permit 13-02.

However, if the Planning Commission approves Conditional Use Permit 13-02, staff recommends the following thirteen (13) conditions be included in the Conditions of Approval:

1. That this Conditional Use Permit allow for shuttle service and a bicycle rental business. Any further expansion of these uses will require the Conditional Use Permit to be amended;
2. That the applicant adheres to all necessary County, State, and Federal regulations, and maintains the necessary permits to conduct the business;
3. That there is no more than one (1) additional employee, excluding family members;
4. That a minimum of six (6) parking spaces be provided on-site, each measuring a minimum of nine (9) feet by 18 feet and maintained in a dust-free manner in accordance with Section 310 of the Pennington County Zoning Ordinance;
5. That the hours of operation will be conducted between the hours of 8:00 a.m. and 5:00 p.m.;
6. That the property be kept clean of any unlicensed, inoperable vehicles and junk at all times;
7. That an address be posted on the shop building in accordance with Ordinance #20 and be clearly visible from both directions on Deerfield Road;
8. That the applicant maintains visitation records and that these numbers be available to Planning Department staff at subsequent reviews of this Conditional Use Permit to ensure the facilities are adequate for the actual number of guests using the property;
9. That prior to Planning Commission approval of this CUP, an Operating Permit be obtained for vault privy on-site wastewater system;

10. That Sign Permits be obtained for any signage and that it meet the requirements of Section 312 of the Pennington County Zoning Ordinance;
11. That the applicant works with the Pennington County Highway Department in the placement of signage for the safe crossing of bicyclists across Deerfield Road;
12. That if any work is to take place within the 100-year floodplain, a Floodplain Development Permit be obtained; and,
13. 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 discussed the septic issues the applicant is needing to address and further questioned if the applicant is able to meet these requirements. He also asked if staff is comfortable with any upgrades the applicant will need to do, based upon the business being considered a commercial use.

Jennissen explained that there is a vault privy located on the property and the applicant has indicated that it will be inspected and he will obtain an Operating Permit prior to operation of the business.

Commissioner Coleman discussed the shuttle service stopping at 1 p.m.

Commissioner Landers discussed the letter in opposition received from the Fentons. She asked where they live in relation to the applicant's property.

Jennissen stated they lived on Lowden Mountain Court, which is located on the north side of Deerfield Road, across from the applicant's property.

Commissioner Zvejnieks further expressed concern with visitors crossing Deerfield Road and also that the proposed use is not considered a home occupation; it's a commercial use.

Commissioner Litzen also discussed VH Rentals located in the area.

Mr. Dan Pulse, applicant, appeared and provided a brief history of the area and his property. He spoke of the proposed use and stated that it fits the neighborhood and he does not consider it a nuisance. He stated that visitors will only be at the property for no more than 20 minutes. Mr. Pulse further discussed other businesses located in the area, which are in close proximity to his property.

Commissioner Zvejnieks asked Mr. Pulse if the business is a shuttle service to the trailhead or will visitors be crossing Deerfield Road.

Mr. Pulse said there will be shuttle service, as well as rental of bicycles. The bicyclists will cross Deerfield Road, from his property and Forest Service property, to get to the

Mickelson Trail. Mr. Pulse asked for approval, with a review in one year, to make sure he is running his business the right way.

Commissioner Coleman asked Mr. Pulse if he considers the VH Rentals in the area to be similar to commercial development.

Mr. Pulse responded yes.

Commissioner Hall asked Mr. Pulse if he considered taking the access on the southeast side of this property, instead of on the northwest side, and then hooking into the trail before it goes under the road, because of safety concerns for visitors crossing Deerfield Road.

Mr. Pulse stated this was taken into consideration, but there is a stream located in that area.

Commissioner Litzen spoke of VH Rentals and asked Mr. Pulse to describe the day-to-day interactions with them.

Mr. Pulse noted that he does not have a problem with them, except for a lot of motorcycles during the rally.

Commissioner Holloway asked Jennissen about the businesses located in the area of the applicant's property, ones that the applicant spoke of, and questioned if they are operating legally or illegally.

Jennissen stated that some of the properties are located and allowed through PUD zoning districts in the area and he would need to research whether the other businesses are operating legally.

Mrs. Cheryl Whetham, property owner on the north side of Deerfield Road, directly across from the applicant's property, appeared and stated they are opposed to the applicant's request to operate a business as a home occupation in a Low Density Residential District (LDR). Mrs. Whetham further discussed uses allowed as a home occupation in a LDR and the requirements needed to be met in order to obtain approval. She further indicated the proposed uses would not be operated in an enclosed structure and additional structures have been added to the property. She also stated the use would increase traffic in the area and on Deerfield Road. She also expressed concern with possible further business expansion of the use on the property. Mrs. Whetham also added that there are permanent residents in the area and only a few VH Rentals in their development. She further expressed concern with off-street parking, dust coming from vehicles that are coming and going from the property, and access from Lowden Mountain Court and safety issues for people crossing Deerfield Road. She stated this application should be denied, based upon the commercial use and lowered property values to the area.

Commissioner Zvejnieks asked Mrs. Whetham if Mickelson Trail crosses Lowden Mountain Court right now.

Mrs. Whetham said yes.

Commissioner McCollam discussed the concern of increased traffic.

Mrs. Whetham indicated that tourists would be going directly to the subject property, which would result in an increase in traffic.

Commissioner Zvejnieks asked staff to clarify the additional structures the applicant recently added to the property.

Jennissen explained that structures 144 square feet and not on a permanent foundation do not need a Building Permit, but if a structure is larger than 144 square feet and on a permanent foundation, it will require a Building Permit. Jennissen further stated the applicant has obtained Building Permits for the structures he moved on to the property.

Ms. Sandy Frank, neighbor, appeared and also spoke in opposition to the proposed use. She said explained that the access from Lowden Mountain Court to the Mickelson Trail is steep, and visitors having to cross Deerfield Road, in order to get to Lowden Mountain Court, presents serious safety issues. She stated that logging trucks, as well as other traffic, travel at a high rate of speed on Deerfield Road. She further noted that the proposed use would lower their property values and lower the enjoyment and use of their home. She believes the proposed use does not fit the established use for a Low Density Residential District and asked that the application be denied.

Discussion followed regarding rezoning the property, which would be considered spot zoning if rezoned to a Highway Service District or a General Commercial Zoning District, what is considered a home occupation, and the proposed use not being operated within an enclosed structure.

Moved by Hall and seconded by Coleman to deny Conditional Use Permit 13-02.

Commissioner Litzen spoke of the proposed use being a low impact use to the area.

Commissioner Coleman also discussed the proposed use not being a home occupation and discussed other possible options available for the applicant to operate his business.

Roll Call Vote on Motion to Deny: Commissioners Litzen, McCollam, Landers, Zvejnieks voted No. Commissioners Holloway, Coleman, and Hall voted yes. Motion to Deny failed 3 to 4.

SUBSTITUTE MOTION: Moved by McCollam and seconded by Landers to approve of Conditional Use Permit 13-02 with thirteen (13) conditions.

Jennissen recommended this item be continued, if the Planning Commission wishes to approve the Conditional Use Permit, until the applicant obtains approval for an Operating Permit for the vault privy, or amend Condition #9 to state “That prior to operation...”

Commissioners McCollam and Landers both agreed to include the change of language for Condition #9 in the Motion.

Roll Call Vote on Substitute Motion to Approve: Commissioners Litzen, McCollam, Landers, and Zvejnieks voted yes. Commissioners Holloway, Coleman, and Hall voted no. Motion to Approve passed 4 to 3.

SUBSTITUTE MOTION: Moved by McCollam and seconded by Landers to approve of Conditional Use Permit 13-02 with the following thirteen (13) conditions:

- 1. That this Conditional Use Permit allow for shuttle service and a bicycle rental business. Any further expansion of these uses will require the Conditional Use Permit to be amended;**
- 2. That the applicant adheres to all necessary County, State, and Federal regulations, and maintains the necessary permits to conduct the business;**
- 3. That there is no more than one (1) additional employee, excluding family members;**
- 4. That a minimum of six (6) parking spaces be provided on-site, each measuring a minimum of nine (9) feet by 18 feet and maintained in a dust-free manner in accordance with Section 310 of the Pennington County Zoning Ordinance;**
- 5. That the hours of operation will be conducted between the hours of 8:00 a.m. and 5:00 p.m.;**
- 6. That the property be kept clean of any unlicensed, inoperable vehicles and junk at all times;**
- 7. That an address be posted on the shop building in accordance with Ordinance #20 and be clearly visible from both directions on Deerfield Road;**
- 8. That the applicant maintains visitation records and that these numbers be available to Planning Department staff at subsequent reviews of this Conditional Use Permit to ensure the facilities are adequate for the actual number of guests using the property;**
- 9. That prior to operation of the home occupation, an Operating Permit be obtained for the vault privy on-site wastewater system;**

10. That Sign Permits be obtained for any signage and that it meet the requirements of Section 312 of the Pennington County Zoning Ordinance;
11. That the applicant works with the Pennington County Highway Department in the placement of signage for the safe crossing of bicyclists across Deerfield Road;
12. That if any work is to take place within the 100-year floodplain, a Floodplain Development Permit be obtained; and,
13. 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.

Motion to Approve passed 4 to 3.

8. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commission's recommendations from the February 11, 2013, Planning Commission meeting.

9. ITEMS FROM THE PUBLIC

Mr. Philip Hunter appeared and discussed the County's regulations for Building Permits, including the requirement for a Building Permit to be obtained for any structure over 144 square feet. He stated that he believes the City of Rapid City allows for a larger structure (200 square feet) before a Building Permit is required. He asked that the City's and County's requirements be the same.

10. ITEMS FROM THE STAFF

There were no items from the staff.

11. ITEMS FROM THE MEMBERSHIP

Commissioner Zvejnieks spoke of goals for the Planning Commission and staff, and further reviewed items he would like to see addressed in the future.

Discussion followed.

12. DISCUSSION ITEMS

There were no discussion items.

13. ADJOURNMENT

Moved by Hall and seconded by Litzen to adjourn.

All voting aye, the Motion carried 7 to 0.

The meeting adjourned at **10:32 a.m.**

Chairperson, Sig Zvejnieks