

**MINUTES**  
**PENNINGTON COUNTY PLANNING COMMISSION**  
**March 25, 2013 @ 9:00 a.m.**

County Commissioners' Meeting Room - Pennington County Courthouse

MEMBERS PRESENT: Sig Zvejnieks, Jim Coleman, Karen Hall, Bill McCollam, Lori Litzen, and Nancy Trautman.

STAFF PRESENT: Dan Jennissen, Lysann Zeller, Mandi Schmierer, Rex Fackrell, Jeri Ervin, and Patrick Grode (SAO).

ROLL CALL

1. APPROVAL OF THE MARCH 11, 2013, MINUTES  
**Moved by Hall and seconded by McCollam to approve the March 11, 2013, Planning Commission minutes. Vote: unanimous (6 to 0).**
2. APPROVAL OF THE AGENDA  
**Moved by Hall and seconded by Coleman to approve the March 25, 2013, Planning Commission Agenda, with the removal of Item #9. 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. **CONSTRUCTION PERMIT REVIEW / CP 08-06:** Pete Lien & Sons. To review the mining of 501 acres of limestone and disposal of clean concrete construction debris for reclamation in General Agriculture and Limited Agriculture Districts.

E1/2NE1/4, E1/2SE1/4, & NW1/4SE1/4, all of Section 19, T2N, R7E; W1/2NW1/4, E1/2NW1/4, E1/2SW1/4, NW1/4SW1/4, and Tract A of Kidner Subdivision, all of Section 20, T2N, R7E; all of BHM, Pennington County, South Dakota.

**To recommend approval of the extension of Construction Permit / CP 08-06 with the following eleven (11) conditions:**

1. **That the applicant continues to maintain and update their Storm Water Construction Permit as disturbance activity changes on-site;**
2. **That erosion control measures continues to be implemented to prevent silt from leaving the applicant's property, erosion control measures be**

**maintained on the area of the proposed driveway construction and the erosion control measures meet DENR requirements;**

- 3. That the property be inspected by the owner of the property and/or contractor weekly during period of disturbance, 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;**
- 4. That if any work is done is within the extents of the 100-year floodplain, approval of a Floodplain Development Permit be obtained;**
- 5. That any natural drainage ways and paths be continually maintained and culverts added as necessary, in accordance with Pennington County Ordinance #14;**
- 6. That prior to start of any surface disturbance, any required permits from the Rapid City Growth Management Department be obtained;**
- 7. That the applicant use existing approaches to the site;**
- 8. That the rubble be limited to clean concrete debris, unless approval from the South Dakota Department Environment and Natural Resources is obtained and a copy of the document is provided to the Pennington County Planning and Zoning Department;**
- 9. That the applicant continually maintain all required permits allowing for the use of clean fill and rubble with the South Dakota Department of Environment and Natural Resources;**
- 10. That a Haul Road Agreement be obtained to haul material across County Roads; and,**
- 11. That this Mining Permit be reviewed in five (5) years.**

**Vote: unanimous (6 to 0).**

- 4. CONSTRUCTION PERMIT REVIEW / CP 08-07: Pete Lien & Sons. To review the mining of 40 acres of limestone and disposal of clean concrete construction debris for reclamation in a General Agriculture District.**

Government Lot 1, Section 19, T2N, R7E, BHM, Pennington County, South Dakota.

**To recommend approval of the extension of Construction Permit / CP 08-07 with the following eleven (11) conditions:**

1. That the applicant obtain a Storm Water Construction Permit 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 erosion control measures be implemented to prevent silt from leaving the applicant's property, erosion control measures be maintained on the area of the proposed driveway construction and the erosion control measures meet DENR requirements;
3. That the property be inspected by the owner of the property and/or contractor weekly during period of disturbance, 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;
4. That if any work is done is within the extents of the 100-year floodplain, approval of a Floodplain Development Permit be obtained;
5. That any natural drainage ways and paths be continually maintained and culverts added, as necessary, in accordance with Pennington County Ordinance #14;
6. That prior to start of any surface disturbance, any required permits from the Rapid City Growth Management Department be obtained;
7. That the applicant will use existing approaches to the site;
8. That the rubble be limited to clean concrete debris, unless approval from the South Dakota Department Environment and Natural Resources is obtained and a copy of the document is provided to the Pennington County Planning and Zoning Department;
9. That the applicant continually maintain all required permits allowing for the use of clean fill and rubble with the South Dakota Department of Environment and Natural Resources;
10. That a Haul Road Agreement be obtained to haul material across County Roads; and,
11. That this Mining Permit be reviewed in five (5) years.

**Vote: unanimous (6 to 0).**

5. **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 six the following (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 May 28, 2013, to verify that the existing SWMH has been removed from the property or upon a complaint basis.**

**Vote: unanimous (6 to 0).**

6. **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.

(Continued from the September 24, 2012, Planning Commission meeting.)

**To recommend to revoke Conditional Use Permit / CU 10-07.**

**Vote: unanimous (6 to 0).**

7. **CONDITIONAL USE PERMIT REVIEW / CU 11-07:** Rapid Valley Elementary; Conrad's Signs. To review a lighted, on-premise sign within 1,500 feet of a residential zoning district/dwelling unit in a Suburban Residential District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance.

Tract 1 of Lot W of (SE1/4NW1/4 & NE1/4SW1/4) (Easement), Williams Subdivision, Section 10, T1N, R8E, BHM, Pennington County, South Dakota.

**To recommend approval of the extension of Conditional Use Permit / CU 11-07 with the following six (6) conditions:**

1. **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;**
2. **That the sign conform to all regulations in Section 312 of the Pennington County Zoning Ordinance, including the requirement that the electronic message center not change messages less than every six (6) seconds;**
3. **That the electronic message center portion of the sign only be operational between 6 a.m. and 8 p.m.;**
4. **That the sign be maintained so as to have an aesthetically pleasing appearance at all times and not appear dilapidated;**
5. **That only on-premise advertising and public information be allowed on the proposed sign and no off-premise advertising be allowed unless otherwise permitted with Pennington County; and,**
6. **That this Conditional Use Permit be reviewed on a complaint basis only.**

**Vote: unanimous (6 to 0).**

8. **REZONE / RZ 12-07 AND COMPREHENSIVE PLAN AMENDMENT / CA 12-05:** RMS Lode/Matt Keck. To rezone 5.13 acres from Limited Agriculture District to Highway Service District and to amend the Comprehensive Plan to change the Future Land Use from Planned Unit Development Sensitive to Highway Service District in accordance with Sections 210 and 508 of the Pennington County Zoning Ordinance.

EXISTING LEGAL: JR #2 Lode less Lot I, less Lot J and less Lot L of JR #2 and JR #5Lodes and less Lot H2 of JR #2, #3 and #5 Lodes of JR #2 Lode MS 1864 and JR #3

Lode less Lots 1 and 2 of Lot E, less Lot H2 of JR #2, #3, and #5 Lode and less ROW, located in Section 21, T1S, R5E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot 2 of Stenson Subdivision, Section 21, T1S, R5E, BHM, Pennington County, South Dakota.

(From the June 25, 2012, Planning Commission meeting.)

**To recommend approval of Rezone / RZ 12-07 to rezone 5.13 acres from Limited Agriculture District to Highway Service District and approval of Comprehensive Plan Amendment / CA 12-05 and to amend the Comprehensive Plan to change the Future Land Use from Planned Unit Development Sensitive to Highway Service District.**

**Vote: unanimous (6 to 0).**

10. **REZONE / RZ 13-02:** Jarvis and Frances Olson; Fisk Land Surveying – Agent. To rezone 7.65 acres from Limited Agriculture District to Low Density Residential District in accordance with Sections 206, 207, and 508 of the Pennington County Zoning Ordinance.

Located on a parcel of land located in the South One-Half of the Northeast One-Quarter of the Southeast One-Quarter (S $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ ) of Section Thirty-Five (35) in Township One North (T1N), Range Three East (R3E) of the Black Hills Meridian (BHM), Pennington County, South Dakota, more fully described as follows: Beginning at the southwest corner of said South One-Half of the Northeast One Quarter of the Southeast One Quarter (S $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ ) of Section Thirty-Five (35) in Township One North (T1N), Range Three East (R3E) of the Black Hills Meridian (BHM), Pennington County, South Dakota, said point being located on a 1/16th section line of said Section Thirty-Five (35) and being marked by a US Forest Service Monument; thence, northerly along the 1/16th section line of said Section Thirty-Five (35), North 00 degrees 09 minutes 00 seconds West, a distance of 260.00 feet more or less to a point marked by a rebar with survey cap RW FISK 6565; thence, South 89 degrees 51 minutes 02 seconds East a distance of 1,282.70 feet more or less to a point located on the westerly line of the section line right-of-way for said Section Thirty-Five (35), said right-of-way being known as Paradise Drive, and said point being marked by a rebar with survey cap RW FISK 6565; thence, southerly on the westerly line of said section line right-of-way and on the westerly line of Paradise Drive right-of-way, South 00 degrees 00 minutes 43 seconds East a distance of 260.00 feet more or less, said point being located on a 1/16th section line and coincident with the northeast corner of Tract 14 of Leisure Hills Estates, and said point being marked by a monument with survey cap LS 2196; thence, westerly on said 1/16th section line and on the north line of said Tract 14 of Leisure Hills Estates, North 89 degrees 53 minutes 45 seconds West a distance of 549.64 feet more or less to the northwest corner of said Tract 14 of Leisure Hills Estates, said point being coincident with the northeast corner of Tract 15 of Leisure Hills Estates and said point being marked by a monument with survey cap LS 2196; thence, continuing westerly on said 1/16th section line and on

the north line of said Tract 15 of Leisure Hills Estates, North 89 degrees 43 minutes 18 seconds West a distance of 542.94 feet more or less to the northwest corner of Tract 15 of Leisure Hills Estates, said point being coincident with the northeast corner of Tract 21 of Leisure Hills Estates and said point being marked by a monument with survey cap LS 2196; thence, continuing westerly on said 1/16th section line and on the north line of said Tract 21 of Leisure Hills Estates, South 89 degrees 54 minutes 44 seconds West 189.50 feet more or less to the point of beginning. Said tract of land contains 7.65 acres, more or less.

**To recommend to continue Rezone / RZ 13-02 to the April 22, 2013, Planning Commission meeting.**

**Vote: unanimous (6 to 0).**

#### **END OF CONSENT CALENDAR**

9. REZONE / RZ 13-01: Arlean Crow; Daniel Crow – Agent. To rezone 47.47 acres from Limited Agriculture District to General Agriculture District in accordance with Sections 205 and 508 of the Pennington County Zoning Ordinance.

Lot 8 Revised, Palmer Gulch Placer MS 690, Section 27, T1S, R5E, BHM, Pennington County, South Dakota.

Commissioner Coleman asked to have this item removed from the Consent Calendar to discuss the Fire Coordinator's comments about the uses that would be allowed with the rezone of the subject property, and he also wanted to know if the applicant has indicated what his intentions are for the property.

Zeller stated the applicant has visited with staff and reviewed the allowed uses in the proposed zoning district, but the applicant has not submitted any other applications; and, there, staff cannot discuss his intentions.

**Moved by Coleman and seconded by McCollam to approve of Rezone / RZ 13-01 to rezone 47.47 acres from Limited Agriculture District to General Agriculture District.**

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

11. LAYOUT PLAT / PL 13-05: William Bennett; Renner & Associates - Agent. To create Tracts 3R, 5, and 6 of Summit Peak Estates Subdivision in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Tract 3 of Summit Peak Estates Subdivision; Less Tract 2, 3, and 4 of Summit Peak Estates Subdivision and Less ROW (Also in Section 33) of Jolly No. 1 Lode MS 527; Less Tract 2 and 3 of Summit Peak Estates Subdivision and ROW (Also in Section 32) of Jolly No. 2 Lode MS 528; and Less Tract 1, 2, and 4 of Summit Peak Estates Subdivision and ROW (Also in Section 33) of Jolly No. 3 lode MS 529, located in NE1/4 of Section 32 and in the NW1/4 of Section 33, T1S, R5E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Tracts 3R, 5, and 6 of Summit Peak Estates Subdivision, Sections 32 and 33, T1S, R5E, BHM, Pennington County, South Dakota.

Zeller reviewed the Staff Report indicating the applicant has applied for a Layout Plat to create Tracts 3R, 5, and 6 of Summit Peak Estates Subdivision. The applicant, William Bennett, is requesting to replat four (4) existing parcels of land into three (3) lots. Specifically, portions of Jolly #1 M.S. 527, Jolly #2 M.S. 528, Jolly #3 M.S. 529, and all of Tract 3 of Summit Peak Estates Subdivision are proposed to be reconfigured into Tracts 3R, 5, and 6 of Summit Peak Estates Subdivision.

Staff recommended approval of Layout Plat 13-05 with the following twelve (12) conditions:

1. That Tracts 3R, 5 and 6 either be rezoned to Low Density Residential to allow for the proposed lot sizes or an approved Lot Size Variance be obtained to allow the proposed lots to remain in Limited Agriculture District with a lot size less than 10 acres;
2. That the road name labels be corrected on the plat to reflect the proper road names, including Old Hill City Road and Twin Rocks Road;
3. That prior to applying for Preliminary Plat, percolation test results and soil profile hole information, including inspection by the Environmental Planner, for each of the proposed lots be submitted;
4. That the ownership of Tract 3 be clarified and addressed by including an additional Certificate of Ownership on the plat or filing of a deed, if necessary;
5. That a major drainage easement be dedicated on the plat for any existing drainage ways on the proposed lots, particularly including the drainage way traversing the lower (northern) portion of proposed Tracts 5 and 6;
6. That bearings and distances be included on the plat for the 66-foot-wide access easements being dedicated across proposed Tracts 3R, 5 and 6;



7. That Twin Rocks Road be improved to Local/Collector Road Design Standards for Low Density Residential in accordance with Section 500.5-Table 1 of the Subdivision Regulations and that engineered road construction plans be provided or else an approved Subdivision Regulations Variance be obtained;
8. That the 66-foot-wide access easement providing access to greater than two (2) lots be improved to Local/Collector Road Design Standards for Low Density Residential in accordance with Section 500.5-Table 1 of the Subdivision Regulations and that engineered road construction plans be provided or else an approved Subdivision Regulations Variance be obtained;
9. That if a Subdivision Regulations Variance request is submitted to waive the required road improvements and related engineered road construction plans, a set of as-built road plans be provided to determine compliance with all requirements of Section 500.5-Table 1 of the Subdivision Regulations. Any of these requirements not met will require the associated road improvement to be conducted or approval of Subdivision Regulations Variance;
10. That the Section Line right-of-way be dedicated on the plat and improved in accordance with Ordinance #14 Standards or else an approved Subdivision Regulations Variance be obtained waiving this requirement;
11. That all requirements of Section 400.2 be met at the time of Preliminary Plat submittal, including, but not limited to, the scale of the plat to be no greater than one (1) inch equals 100 feet and topography to be provided at a five (5) foot contour interval, or else an approved Subdivision Regulations Variance be obtained waiving any of these requirements not met; and,
12. That approval of this Layout Plat does not constitute approval of any further applications to be submitted for the above-described property.

Commissioner Hall expressed concern with what appears to be a small portion of proposed Tract 3 and questioned if the small lot is unbuildable.

Zeller explained that this is actually a part of existing Tract 2, from a portion of the old Jolly No. 1 Lode MS, and is not an unplatted balance.

Commissioner Trautman expressed concern that there is not a turnaround designated for emergency vehicles. She further indicated that the Fire Coordinator did not comment on this for the proposed application.

Zeller agreed this could be a concern considering the width of the road and the diameter of the curves, but, based on the Subdivision Regulations, a turnaround is not required as the road does not exceed one-half mile in length.

Discussion followed.

**Moved by McCollam and seconded by Litzen to approve of Layout Plat 13-05 with the following twelve (12) conditions:**

- 1. That Tracts 3R, 5 and 6 either be rezoned to Low Density Residential to allow for the proposed lot sizes or an approved Lot Size Variance be obtained to allow the proposed lots to remain in Limited Agriculture District with a lot size less than 10 acres;**
- 2. That the road name labels be corrected on the plat to reflect the proper road names, including Old Hill City Road and Twin Rocks Road;**
- 3. That prior to applying for Preliminary Plat, percolation test results and soil profile hole information, including inspection by the Environmental Planner, for each of the proposed lots be submitted;**
- 4. That the ownership of Tract 3 be clarified and addressed by including an additional Certificate of Ownership on the plat or filing of a deed, if necessary;**
- 5. That a major drainage easement be dedicated on the plat for any existing drainage ways on the proposed lots, particularly including the drainage way traversing the lower (northern) portion of proposed Tracts 5 and 6;**
- 6. That bearings and distances be included on the plat for the 66-foot-wide access easements being dedicated across proposed Tracts 3R, 5 and 6;**
- 7. That Twin Rocks Road be improved to Local/Collector Road Design Standards for Low Density Residential in accordance with Section 500.5-Table 1 of the Subdivision Regulations and that engineered road construction plans be provided or else an approved Subdivision Regulations Variance be obtained;**
- 8. That the 66-foot-wide access easement providing access to greater than two (2) lots be improved to Local/Collector Road Design Standards for Low Density Residential in accordance with Section 500.5-Table 1 of the Subdivision Regulations and that engineered road construction plans be provided or else an approved Subdivision Regulations Variance be obtained;**
- 9. That if a Subdivision Regulations Variance request is submitted to waive the required road improvements and related engineered road construction plans, a set of as-built road plans be provided to determine compliance with all requirements of Section 500.5-Table 1 of the Subdivision Regulations. Any of these requirements not met will require the associated road improvement to be conducted or approval of Subdivision Regulations Variance;**

10. **That the Section Line right-of-way be dedicated on the plat and improved in accordance with Ordinance #14 Standards or else an approved Subdivision Regulations Variance be obtained waiving this requirement;**
11. **That all requirements of Section 400.2 be met at the time of Preliminary Plat submittal, including, but not limited to, the scale of the plat to be no greater than one (1) inch equals 100 feet and topography to be provided at a five (5) foot contour interval, or else an approved Subdivision Regulations Variance be obtained waiving any of these requirements not met; and,**
12. **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.**

12. CONDITIONAL USE PERMIT / CU 13-05: Eric and Heidi Henriksen. To allow for three residences on the subject property and to bring the property into compliance to obtain Building Permits in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

Government Lots 1 and 2, SE1/4; SE1/4SW1/4, less Right-of-Way, Section 2, T1S, R9E, BHM, Pennington County, South Dakota.

Schmierer reviewed the Staff Report indicating the applicants are requesting a Conditional Use Permit to allow for three residences on one parcel. The homes are currently located on the property, and the purpose of the request is to bring the property into compliance in order for a Building Permit to be issued for a barn that was recently constructed without a Building Permit.

Schmierer provided a brief history of the property and also stated the applicants were informed that a Building Permit would be required for the barn, but before a permit could be issued, the existing residences were going to have to be brought into compliance. Schmierer further explained that the Zoning Ordinance does not allow for three (3) residential structures on one lot, when they are not being occupied by ranch hands who are directly engaged in the operation of the farm or ranch. In this case, the homes are occupied by occupants who work off-site, but two of the families help out on the property, when needed. Schmierer also stated there is floodplain located on the property.

Staff recommended denial of Conditional Use Permit / CU 13-05 to allow for three (3) residences on one parcel, as the use does not comply with the Zoning Ordinance, and also recommended the applicants work on subdividing the property into four separate lots.

Commissioner Zvejnieks spoke of the site plan submitted with the Staff Report and noted the applicants did not show setbacks to the property lines for the structures that are located on the property. He further questioned if the property could be subdivided into four lots.

Schmierer stated the property could be subdivided, with approval of Setback Variances, and the property could also be rezoned.

Commissioner Hall expressed concern that the septic tank for the barn is located very close to the creek, and she further discussed the elevation on the property in relation to the floodplain.

Mrs. Heidi Henriksen informed the Planning Commission that they just purchased the property in December of 2012, but they managed it prior to that for ten years.

Commissioner Coleman asked staff to define what an Elevation Certificate is.

Jennissen responded and stated that anyone building in the floodplain would need to determine what their base flood elevation is first. Then it would also need to be determined if the structure is above the base flood elevation, and, if it is, it then meets the Flood Damage Prevention Ordinance.

Mr. Eric Henriksen and Mrs. Heidi Henrikson, applicants, appeared and provided a brief history of the property. Mrs. Henriksen further discussed some of the residences on the property and stated that one home was built in 1900 and the other in 1948 and land planning did not go into effect until 1967 and wanted to know if the homes would then be “grandfathered-in”. Mrs. Henrikson also indicated that no one works full-time at the property; everyone works away from the ranch except for helping part-time in the spring and in the summer. The elderly man and his wife, who live in the mobile home, help out in the spring and summer, on an as-needed basis, and they own that mobile home located on the subject property. Mrs. Henrikson also commented that she doesn’t believe the mobile home will be there on a long-term basis and they would agree to not move another mobile home back in once that one left.

Schmierer stated the structures were grandfathered, prior to the adoption of the Zoning Ordinance, but since the pole barn was built without a Building Permit, the property is then in violation and the property would then need to be brought into compliance to remove the violation.

Mr. Henrickson addressed this and stated that they did not realize they needed to obtain a Building Permit to replace the barn that burned.

Commissioner Zvejnieks wanted to know when the pole barn building was rebuilt.

Mr. Henrickson said a couple of months ago.

Commissioner Litzen asked the applicants what the cabin and the original residence are used for.

Mr. and Mrs. Henrickson both stated they are used as rental properties and people also board horses at the ranch.

Commissioner Hall asked if the people living in the single-wide would rent their mobile home to other people, if they move out.

Mrs. Henricksen said she didn't think so.

Jennissen informed the Planning Commission that the State's Attorney's Office said the pole barn is not an expansion of the non-conformity on the property, but the issue of the number of residences on the property, are still in violation.

Commissioner Zvejnieks also questioned if the carports need Building Permits.

Jennissen stated that anything over 144 square feet does require a Building Permit in Pennington County.

Mr. Patrick Grode, Deputy State's Attorney, explained that, since the two houses on the property were being used as residences, prior to the adoption of the Zoning Ordinance in 1996, they could still be continued to be used as residences, but they cannot add onto the houses or add a third residence.

Discussion further followed on subdividing the property to allow the mobile home to remain under a Conditional Use Permit and correcting the violations on the property.

Schmierer provided a list of Conditions of Approval to the Planning Commission and the applicants.

Commissioner Hall asked that the PC and staff look for a way to bring this property into compliance by removing the one single-wide mobile home or subdividing the property.

Commissioner Litzen also spoke of making the residences Vacation Home Rentals.

Jennissen noted that Vacation Home Rental stays are 30 days or less.

**Moved by McCollam and seconded by Coleman to deny without prejudice Conditional Use Permit 13-05.**

Commissioner Trautman clarified that a Building Permit will be issued for the pole barn.

Schmierer also stated the applicants will need an Elevation Certificate and an Operating Permit, before a Building Permit can be issued.

Commissioner Zvejnieks clarified with the applicants what denied without prejudice means.

Commissioner Hall also requested that another letter be sent to the SD Real Estate Commission addressing issues relating to properties being sold with potential zoning problems.

Jennissen said another letter could be sent.

Commissioner McCollam also noted that the title company should have been aware of the issues with the property, prior to it being sold.

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

13. LAYOUT PLAT / PL 13-04 AND SUBDIVISION REGULATIONS VARIANCE / SV 13-01: Jarvis and Frances Olson; Fisk Land Surveying – Agent. To create Lots 1 and 2 of Olson Park Subdivision and to waive platting requirements in accordance with Section 400.1 and Section 700.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: S1/2NE1/4SE1/4, Section 35, T1N, R3E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots 1 and 2 of Olson Park Subdivision, Section 35, T1N, R3E, BHM, Pennington County, South Dakota.

Jennissen reviewed the Staff Report indicating the applicants have submitted a Layout Plat to create Lots 1 and 2 of Olson Park Subdivision #3 and also a Subdivision Regulations Variance to waive percolation tests, soil profile information, to allow the scale of the plat to be 1"=150', topography at 40' intervals and one more lot on a dead-end road system. The applicant would like to subdivide the property into an 11.81 acre lot and a 7.65 acre lot. The applicant has also submitted a Rezoning request to rezone the proposed 7.65 acre lot from Limited Agriculture District to Low Density Residential District.

Staff recommended denial of a portion of Subdivision Regulation Variance 13-01 to waive the 40 maximum lots on a dead-end road system and percolation tests and soil profile information for Lot 2.

Staff recommended approval of a portion of Subdivision Regulations Variance 13-01 to allow topography at a 40 foot contour interval and the scale of the plat to be 1"=150' and to waive the percolation tests and soil profile information on proposed Lot 1.

Staff recommended approval of Layout Plat 13-04 with the following six (6) conditions:

1. That proposed Lot 2 be rezoned to Low Density Residential District or obtain approval of a Lot Size Variance to allow the 7.65 acre lot in a Limited Agriculture Zoning District;

2. That a second means of ingress/egress be obtained or a Subdivision Regulations Variance be obtained to allow more than 40 lots on a dead-end road system;
3. That at the time of submittal of the Minor Plat, the applicant submits percolation tests and soil profile information of proposed lots 1 and 2 or obtain approval of a Subdivision Regulations Variance waiving this requirement;
4. That at the time of submittal of the Minor Plat, the applicant submits topography at a five foot contour interval or obtain approval of a Subdivision Regulations Variance waiving this requirement;
5. That the scale of the plat be 1"=100' or obtain approval of a Subdivision Regulations Variance waiving this requirement;
6. That approval of this Layout Plat does not constitute approval of any further applications to be submitted for the above-described property.

Commissioner Trautman wanted to know that there would not be any further applications approved, if this one is denied, based upon the 40 residences already located on a dead end road in the area.

Jennissen said that is correct.

Commissioner Trautman further spoke of safety concerns and spoke of the development needing a second means of ingress/egress. She also stated that she would not be voting in favor of the application because the intent is to add more residences on a dead end road system.

Mr. Jarvis Olson, applicant, responded and said there is a Road District, but not an active Homeowner's Association.

Commissioner Hall asked if a letter could be sent to the Road District stating that, until a second means of ingress/egress is provided, expansion in the area will not be allowed.

Ms. Janelle Finck, Fisk Land Surveying, appeared and discussed the proposed application. She stated the applicants' granddaughter would like to purchase the property and eventually build a residence on the proposed lot. She spoke of areas in Pennington County already developed with 40 or more residences located on dead end roads and other communities in Pennington County dealing with the same circumstances. She further discussed this particular situation and asked that each application be considered individually. She also spoke of Deerfield Road and noted it is a good road, and the applicants' property is only one-half mile on Paradise Drive to Deerfield Road. She further stated there is a way to connect through to Deerfield Park Drive, from the southern portion of the property, but it is not a formalized road at this time.

Commissioner Zvejnieks questioned why there couldn't be a formalized agreement to use the portion of that road to Deerfield Park Drive.

Ms. Finck said it would involve establishing an easement and possible payment from some of the landowners to formalize the use of that particular access.

Discussion followed.

Ms. Finck asked that this item be continued for one month to do more research for a second means of ingress/egress.

Commissioner McCollam suggested adding another condition indicating that there is an agreement with the landowners for the portion of the road connecting through to Deerfield Park Drive.

**Moved by Zvejnieks and seconded by Hall to continue Layout Plat 13-04 and Subdivision Regulations Variance 13-01 to the April 22, 2013, Planning Commission meeting.**

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

14. COUNTY BOARD REPORT

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

15. ITEMS FROM THE PUBLIC

Mr. William Bennett stated he was Item #11 on the Agenda and asked if there were any questions for him to answer. The Planning Commission said they had none.

16. ITEMS FROM THE STAFF

- A. Discussion of Memo from the Planning Director of Items from the Planning Commission to be reviewed and/or addressed for 2013.

Jennissen reviewed the Memo provided to the Planning Commission.

Commissioner Trautman asked that this list also be given to the Board of Commissioners.

Commissioner Zvejnieks also spoke of Vacation Home Rentals and discussed if this item needs to be revisited.



Commissioner Hall discussed State Law items to be addressed and lobbied in the future. Commissioner Trautman recommended this be started now for in the future.

17. ITEMS FROM THE MEMBERSHIP

There were no items from the membership.

18. DISCUSSION ITEMS

There were no discussion items.

19. ADJOURNMENT

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

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

The meeting adjourned at **10:55 a.m.**

---

Chairperson, Sig Zvejnieks