

MINUTES
PENNINGTON COUNTY PLANNING COMMISSION
August 12, 2013 @ 9:00 a.m.

County Commissioners' Meeting Room - Pennington County Courthouse

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

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

ROLL CALL

1. APPROVAL OF THE JULY 22, 2013, MINUTES
Moved by Hall and seconded by Litzen to approve the July 22, 2013, Planning Commission minutes. Vote: unanimous (5 to 0).

Commissioner Holloway appeared at the meeting at 9:01 a.m.

2. APPROVAL OF THE AGENDA
Moved by Landers and seconded by Hall to approve the August 12, 2013, Planning Commission agenda. 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. **CONDITIONAL USE PERMIT REVIEW / CU 90-48:** Kate Roseland. To review a single-wide manufactured home as a caretaker's residence in a Suburban Residential District in accordance with Section 204-D of the Pennington County Zoning Ordinance.

Lot 7, Block 4, Eastern Acres Subdivision, Section 11, T1N, R8E, BHM, Pennington County, South Dakota.

To approve the extension of Conditional Use Permit / CU 90-48 with the following three (3) conditions:

1. **That a Building Permit be obtained for any structure exceeding 144 square feet or located on a permanent foundation which will require a site plan to be reviewed by the Planning Director;**

2. That one of the manufactured homes be removed from the property when care is no longer needed for Mr. Wortham or when Ms. Roseland and/or Mr. Wortham no longer resides on the property; and,
3. That this Conditional Use Permit be reviewed in three (3) years or on a complaint basis.

Vote: unanimous (6 to 0).

4. **CONDITIONAL USE PERMIT REVIEW / CU 12-02:** Rushmore Cave, LLC/Tom Hagen and Bobby Sundby - Agents. To review a Recreational Resort in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

Lot 1 of Rushmore Cave Subdivision, Section 18, T2S, R7E, BHM, Pennington County, South Dakota.

To approve the extension of Conditional Use Permit / CU 12-02 with the following eleven (11) conditions:

1. That this Conditional Use Permit allows for the existing cave operation, including the use of cave tours, a visitor's center/gift shop, the bunkhouse as a seasonal residence, and associated maintenance buildings, a zip line ride, and the addition of an interactive dark theater on the property. These uses are allowed to occur up to a maximum of six (6) months per year. Any further expansion of these uses will require the Conditional Use Permit to be amended;
2. 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;
3. That the initial and annual inspection results for the zip line ride be made available to the Planning Department;
4. That the cave tours and interactive dark theater only be operated between the hours of 8 a.m. and 8 p.m. and the zip line ride only be operated between the hours of 9 a.m. and 7 p.m.;
5. That a minimum of 63 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;
6. That a Construction Permit be obtained prior to any excavation or land disturbance greater than 10,000 square feet;

7. That if the approach off of Highway 40 is relocated, it be constructed in accordance with the South Dakota Department of Transportation's Highway Access Permit;
8. That Sign Permits be obtained for any new signage and that it meet the requirements of Section 312 of the Pennington County Zoning Ordinance;
9. That the lot address be clearly posted so it is visible from both directions along Highway 40 in accordance with Pennington County's Ordinance #20;
10. That this Conditional Use Permit only applies to the land described as Lot 1 of Rushmore Cave Subdivision and the uses allowed not be extended onto any adjoining property, in the case Lot 1 is combined with other lots to create Lot 1R; and,
11. 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 (6 to 0).

5. **CONDITIONAL USE PERMIT REVIEW / CU 12-04:** Glenn and Della Wishard (Nancy Kimball – Contract for Deed Owner). To review a multi-family dwelling unit (tri-plex) in a Suburban Residential District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance.

SW1/4SW1/4SW1/4NW1/4 of Section 16, T1N, R8E, BHM, Pennington County, South Dakota.

(Continued from the July 22, 2013, Planning Commission meeting.)

To approve the extension of Conditional Use Permit / CU 12-04 with the following five (5) conditions:

1. That a minimum of six (6) off-street parking spaces be provided on-site, each measuring a minimum of nine (9) feet by 18 feet, surfaced with gravel, concrete or asphalt, and maintained in a dust-free manner;
2. That the property be kept free of debris and junk vehicles;
3. That the address of each unit be clearly posted so it is visible form South valley Drive in accordance with Pennington County's Ordinance #20;
4. That smoke alarms be installed and/or properly maintained in working order in each unit; and,

5. 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 (6 to 0).

6. **LAYOUT PLAT / PL 13-15 AND SUBDIVISION REGULATIONS VARIANCE / SV 13-08:** Alison Lewis; Fisk Land Surveying – Agent. To create Lot 4 Revised of Engberg Subdivision and to waive platting requirements in accordance with Sections 400.1 and 700.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lots 4, 5, 7, 8, 9, and 10, Engberg Subdivision, Section 6, T2S, R6E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lot 4 Revised, Engberg Subdivision, Section 6, T2S, R6E, BHM, Pennington County, South Dakota.

To approve Subdivision Regulations Variance / SV 13-08 to waive Section Line Highway improvements; topography at a five foot interval; road improvements to Old Hill City Road, which include right-of-way width requirements and driving surface improvements; improvements to the access easements; percolation tests and soil profile information due to the applicant consolidating lots and a residence already exists on the property; and, also approve Layout Plat / PL 13-15 with the following eight (8) conditions:

1. That prior to County Board approval of the Minor Plat, the property be rezoned from Limited Agriculture District to Low Density Residential District;
2. That prior to County Board approval of the Minor Plat, a Comprehensive Plan Amendment be approved to amend the Future Land Use Map from PUD Sensitive to Low Density Residential District;
3. That the plat heading be corrected to “The title needs to be corrected to show “formerly all of lots 4, 5, 7, 8, 9 & 10 of Engberg Subdivision”;
4. That the applicant submits engineered road construction plans for the Section Line Highway, the 20 foot access easement and Old Hill City Road or obtain approval of a Subdivision Regulations Variance waiving this requirement;
5. That prior to County Board approval of the Minor Plat, the applicant obtain Operating Permit for the onsite wastewater treatment system on the property;
6. That the Section Line ROW and Old Hill City Road are built to Local Road Standards in a Low Density Residential District, which includes a 32-foot paved

driving surface for Old Hill Road; and Ordinance 14 for the Section Line ROW or obtain approval of a Subdivision Regulations Variance be obtained waiving this requirement;

- 7. That the 20 foot access easements be widened to a 40-foot-wide access easement and ROW for Old Hill City Road be widen to 80 feet or obtain approval of a Subdivision Regulations Variance waiving this requirement; and,**
- 8. That approval of this Layout Plat does not constitute approval of any further applications to be submitted for the above-described property.**

Vote: unanimous (6 to 0).

END OF CONSENT CALENDAR

7. CONDITIONAL USE PERMIT / CU 13-16: Larry Teuber / School House, LLC; Renner & Associates – Agent. To allow a Guest House in a Limited Agriculture District / Suburban Residential District in accordance with Sections 206, 318, and 510 of the Pennington County Zoning Ordinance.

Lots 2 and 3 (inclusive of one-half vacated Clarkson Road adjacent to said lots), Block 4 of Spring Canyon Estates, and Lot 4, Block 4 of Spring Canyon Estates, Section 5, T1S, R7E, BHM, Pennington County, South Dakota.

(Continued from the July 22, 2013, Planning Commission meeting.)

Zeller reviewed that this item had been continued from the July 22, 2013, Planning Commission meeting in order for the size of the Guest House to be addressed. A Variance request was submitted by the applicant to allow the Guest House to exceed the maximum square footage requirement. The Guest House was measured by the agent and determined to be larger than the Department of Equalization's records indicate at approximately 1,241 square feet. The applicant's Variance request (VA 13-10) was heard by the Board of Adjustment at their August 6, 2013, meeting and approved with the following condition: "That this Variance allows for the maximum square footage requirement for a Guest House to be exceeded by the size of existing structure. Any additions or increases in the overall square footage of the living space or covered decking would require a separate Variance to be obtained."

Staff recommended approval of Conditional Use Permit 13-16 with the following six (6) conditions:

1. That the lot address assigned for the Guest House, 9699 Clarkson Road, be posted so it is clearly visible from Clarkson Road in accordance with Pennington County Ordinance #20;
2. That the applicant file a deed restriction at the Register of Deeds stating the regulations applicable to the Guest House, including that the Guest House shall not be separately rented or leased from the main residence, in accordance with Section 318-B-13 of the Zoning Ordinance;
3. That the Guest House be utilized and maintained in accordance with the requirements of Section 318 of the Zoning Ordinance, including the Guest House may not be used more than 180 days per calendar year and the primary dwelling must be continually classified as owner-occupied by the Department of Equalization;
4. That this Conditional Use Permit is not valid until the portion of property the Guest House is located on is rezoned to Limited Agriculture District. If this portion of property is not rezoned and the Guest House remains located in a Suburban Residential District, this Conditional Use Permit shall be revoked;
5. That this Conditional Use Permit is only valid for proposed Lot 2R of Spring Canyon Estates, which consists of portions of existing Lots 2, 3 and 4 of Spring Canyon Estates, as being platted with the Rapid City Community Planning Department; and,
6. 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.

Commissioner Zvejnieks questioned whether or not there was discussion regarding removing porches or decks from the square footage requirements, when the applicant's Variance was heard before the Board of Commissioners.

Zeller said no, but spoke of a possible Ordinance Amendment to consider removing the covered porch from the calculation or giving the Planning Commission authority to waive that requirement.

Discussion followed.

Moved by McCollam and seconded by Hall to approve of Conditional Use Permit 13-16 with the following six (6) conditions:

- 1. That the lot address assigned for the Guest House, 9699 Clarkson Road, be posted so it is clearly visible from Clarkson Road in accordance with Pennington County Ordinance #20;**

2. That the applicant file a deed restriction at the Register of Deeds stating the regulations applicable to the Guest House, including that the Guest House shall not be separately rented or leased from the main residence, in accordance with Section 318-B-13 of the Zoning Ordinance;
3. That the Guest House be utilized and maintained in accordance with the requirements of Section 318 of the Zoning Ordinance, including the Guest House may not be used more than 180 days per calendar year and the primary dwelling must be continually classified as owner-occupied by the Department of Equalization;
4. That this Conditional Use Permit is not valid until the portion of property the Guest House is located on is rezoned to Limited Agriculture District. If this portion of property is not rezoned and the Guest House remains located in a Suburban Residential District, this Conditional Use Permit shall be revoked;
5. That this Conditional Use Permit is only valid for proposed Lot 2R of Spring Canyon Estates, which consists of portions of existing Lots 2, 3 and 4 of Spring Canyon Estates, as being platted with the Rapid City Community Planning Department; and,
6. 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.

All voting aye, the Motion carried 6 to 0.

8. CONDITIONAL USE PERMIT / CU 13-18: Rochford Community Club; Anna Burleson – Agent. To allow a Community Center in a Suburban Residential District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance.

Lot 4, Block 2 of Dakota Lode M.S. 2109, and Part of Lot 1 (26' x 60' in NE Corner), Block 3 of Dakota Lode M.S. 2109, Section 23, T2N, R3E, BHM, Pennington County, South Dakota.

(Continued from the July 22, 2013, Planning Commission meeting.)

Zeller reviewed that this item had been continued from the July 22, 2013, Planning Commission meeting in order for the applicants to obtain approval of a Variance in order to address the minimum lot size and setback requirements in a Suburban Residential District and to waive the minimum off-street parking requirements. The applicant's Variance request (VA 13-09) was approved by the Board of Adjustment at their August 6, 2013, meeting with the following condition: "That approval of the Setback Variance portion of this request only applies to the existing structures and proposed addition. All other structures must maintain the proper setback requirements or obtain approval of a separate Variance."

Staff recommended approval of Conditional Use Permit 13-18 with the following nine (9) conditions:

1. That an Observation Form be completed and submitted to the Planning Department when the holding tank is next pumped and that an Operating Permit be obtained;
2. That information regarding the portable toilet located on-site be made available to the Planning Department upon request, including the name of facility handling the waste, the schedule of the pumping, and pumping receipts;
3. That prior to any expansion of the Rochford Community Hall, including issuance of a Building Permit for the proposed addition, the existing on-site wastewater disposal system be reviewed and approved by the South Dakota Department of Environment and Natural Resources;
4. That no parking be allowed over the holding tank and the applicant take the necessary measures to ensure this;
5. That the outhouse structure be used for storage only and not as a restroom facility, unless a vault privy is installed, in which approval of an On-site Wastewater Construction Permit would be required;
6. That a Building Permit be obtained for the proposed addition;
7. That a Sign Permit be obtained prior to the installation of any new signs on the property;
8. That the property not be used for overnight accommodations by any campers or RVs; and,
9. 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.

Commissioner Hall spoke of the surveyed drawing with the Staff Report and wanted to know if the existing outhouse will be removed prior to the addition being added on to the structure.

Zeller stated the location of the outhouse on the drawing is approximate and depending on the size and location of the addition, the outhouse may need to be removed or relocated.

Ms. Lori Ruleson, president of Rochford Community Club, appeared and explained that the outhouse hole has been filled in and the outhouse is used as shed.

Commissioner McCollam questioned if there will be enough room on the southeast side of the property, in order to increase the right-of-way, when Rochford Road is improved in the future.

Zeller noted that this is being addressed through the Minor Plat submittal and the County Highway Department has requested additional right-of-way to be dedicated or a 20 foot easement be granted from the centerline of the road.

Moved by Landers and seconded by Litzen to approve of Conditional Use Permit 13-18 with the following nine (9) conditions:

- 1. That an Observation Form be completed and submitted to the Planning Department when the holding tank is next pumped and that an Operating Permit be obtained;**
- 2. That information regarding the portable toilet located on-site be made available to the Planning Department upon request, including the name of facility handling the waste, the schedule of the pumping, and pumping receipts;**
- 3. That prior to any expansion of the Rochford Community Hall, including issuance of a Building Permit for the proposed addition, the existing on-site wastewater disposal system be reviewed and approved by the South Dakota Department of Environment and Natural Resources;**
- 4. That no parking be allowed over the holding tank and the applicant take the necessary measures to ensure this;**
- 5. That the outhouse structure be used for storage only and not as a restroom facility, unless a vault privy is installed, in which approval of an On-site Wastewater Construction Permit would be required;**
- 6. That a Building Permit be obtained for the proposed addition;**
- 7. That a Sign Permit be obtained prior to the installation of any new signs on the property;**
- 8. That the property not be used for overnight accommodations by any campers or RVs; and,**
- 9. 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.**

All voting aye, the Motion carried 6 to 0.

9. VACATION OF EASEMENT / VE 13-01: Jerry and Michele Sowards. To vacate a portion of the access easements located along the interior of Lots 13, 14, 17, and 18 of Tract A of Sunnyside Acres Subdivision in accordance with the Pennington County Zoning Ordinance.

Lots 13, 14, 17, and 18 of Tract A, Sunnyside Acres Subdivision, Section 25, T2N, R4E, and Section 30, T2N, R5E, BHM, Pennington County, South Dakota.

Jennissen reviewed the Staff Report indicating this item was tabled in order for all parties involved to meet and discuss a possible resolution of access to the neighboring properties. The parties met and came to an agreement that will provide access to the neighboring property owners.

Staff recommended approval of the portion of the applicant's Vacation of Easement request to vacate the access easements within Lots 13, 14, 17 and 18 with the exception of the 17 foot easements located along the northwest property line of Lot 13 and the southeast property lines in 17 and 18 with the following condition:

1. That prior to County Board approval, a signed agreement, by all parties involved, be submitted to Planning and Zoning.

Commissioner Zvejnieks asked staff if a date was given to all parties involved establishing when the agreement, with all signatures, needs to be turned into the Planning Department.

Jennissen stated no, but the agreement needs to be turned in prior to County Board approval on Tuesday, August 20th.

Discussion followed.

Moved by Hall and seconded by McCollam to approve of the portion of the applicant's Vacation of Easement request to vacate the access easements within Lots 13, 14, 17 and 18 with the exception of the 17 foot easements located along the northwest property line of Lot 13 and the southeast property lines of Lots 17 and 18 with the following condition:

1. **That prior to County Board approval, a signed agreement, by all parties involved, be submitted to Planning and Zoning.**

All voting aye, the Motion carried 6 to 0.

10. CONDITIONAL USE PERMIT REVIEW / CU 10-38: Robert Mills. To review a home occupation, an auto restoration shop, in a Suburban Residential District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance.

The N1/2 Lot E of E1/2SE1/4, Section 9, T1N, R8E, BHM, Pennington County, South Dakota.

Jennissen reviewed the Staff Report and history of the subject property with the Planning Commission. Jennissen stated staff has not received any complaints regarding the property, since the last review. On August 8, 2013, a site visit was conducted and it appears the applicant is meeting all the conditions of approval with the exception that it appeared that the RV was being lived in. A conversation with the applicant indicated that he has the RV hooked up to electrical to keep his items in the refrigerator cool. Staff reaffirmed to the applicant that the RV cannot be used as living quarters on the property.

Staff recommended approval of the extension of Conditional Use Permit 10-38 with the following eleven (11) 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 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 there is a minimum of three (3) off-street parking spaces available at all times;
5. That all aspects of the business be conducted entirely within an enclosed structure (structure being building) and no stock in trade shall be displayed outside the enclosed structure;
6. That the hours of operation will be conducted between the hours of 7:00 a.m. and 6:00 p.m.;
7. This Conditional Use Permit is not valid until the Statement of Understanding, which is available at the Planning Office, has been signed by the applicant;
8. That if the amount of waste generated from the restoration shop and disposed of in the sanitary sewer exceeds 10,000 gallons per month, Rapid Valley Sanitary District and City of Rapid City must be notified and pretreatment (i.e. sand filter) implemented prior to disposal;
9. That an address be posted on the shop building in accordance with Ordinance #20;

10. 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; and,
11. That historic auto restoration be defined as working on motor vehicles 20 years or older.

Commissioner Hall commented that she believes the applicants take the RV to North Dakota when they are working there and that is most likely why it looks like it is being lived in, when they bring it back to the property.

Moved by McCollam and seconded by Litzen to approve of the extension of Conditional Use Permit 10-38 with the following eleven (11) 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 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 there is a minimum of three (3) off-street parking spaces available at all times;**
- 5. That all aspects of the business be conducted entirely within an enclosed structure (structure being building) and no stock in trade shall be displayed outside the enclosed structure;**
- 6. That the hours of operation will be conducted between the hours of 7:00 a.m. and 6:00 p.m.;**
- 7. This Conditional Use Permit is not valid until the Statement of Understanding, which is available at the Planning Office, has been signed by the applicant;**
- 8. That if the amount of waste generated from the restoration shop and disposed of in the sanitary sewer exceeds 10,000 gallons per month, Rapid Valley Sanitary District and City of Rapid City must be notified and pretreatment (i.e. sand filter) implemented prior to disposal;**
- 9. That an address be posted on the shop building in accordance with Ordinance #20;**

10. 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; and,
11. That historic auto restoration be defined as working on motor vehicles 20 years or older.

All voting aye, the Motion carried 6 to 0.

11. LAYOUT PLAT / PL 13-14 AND SUBDIVISION REGULATIONS VARIANCE / SV 13-07: Robert Tschetter; Fisk Land Surveying – Agent. To create Lots 1R and 2R of Berry Development and to waive platting requirements in accordance with Sections 400.1 and 700.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Lots 1, 2, and 3, Berry Development, Section 15, T1N, R5E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Lots 1R and 2R, Berry Development, Section 15, T1N, R5E, BHM, Pennington County, South Dakota.

Jennissen reviewed the Staff Report indicating the applicant has applied for a Layout Plat to consolidate three lots into two lots. The applicant has also applied for a Subdivision Regulations Variance requesting to waive engineered road construction plans for both Custer Gulch Road and a 33-foot wide access easement; road width requirements for the private access easement; road improvements to both Custer Gulch Road and the 33-foot private access easement; soil profile information and percolation tests and topography at five foot intervals.

Jennissen stated the property is currently vacant of any structures and is forested. U.S. Forest Service land is located along the north property lines, and the property was originally platted in 1980. In 1986, the U.S. Forest Service surveyed the area and determined that the north 46 feet of Lots 1 thru 4 are U.S. Forest Service Land. The plat was never corrected to adjust for this oversight. This plat will correct and consolidate Lots 1 thru 3 of Berry Development.

Staff recommended approval of Subdivision Regulations Variance 13-07 to waive topography at a five foot interval; road improvements to Custer Gulch Road; engineered road construction plans; improvements to the access easement; percolation tests and soil profile information due to the applicant is consolidating; and, topography as the applicant is decreasing density in the area; and, further recommended approval of Layout Plat 13-14 with the following seven (7) conditions:

1. That Custer Gulch Road be improved to Table one standards, which includes a 24-foot wide paved road with curb, gutter sidewalks and on-street parallel parking or obtain approval of a Subdivision Regulation Variance waiving this requirement;

2. That the 33-foot wide access easement be improved to Table one standards, which includes a 24-foot wide paved road with curb, gutter sidewalks and on-street parallel parking or obtain approval of a Subdivision Regulation Variance waiving this requirement;
3. That engineered road construction plans be submitted for both Custer Gulch Road and the 33-foot private access easement or obtain approval of a Subdivision Regulation Variance waiving this requirement;
4. That at the time of submittal of the Minor Plat, the applicant submit percolation tests and soil profile information or obtain approval of a Subdivision Regulation Variance waiving this requirement;
5. That the applicant submit topography at a five foot contour interval or obtain approval of a Subdivision Regulation Variance waiving this requirement;
6. That the 33-foot private access easement be named with the filing of this plat; and,
7. That approval of this Layout Plat does not constitute approval of any further applications to be submitted for the above-described property.

Commissioner Zvejnieks discussed the required road improvements when platting and further spoke of creating a rule where road improvements are not required, when density is being decreased. He noted that there needs to be more discussion of this issue.

Commissioner Litzen questioned if the road traverses throughout the development and if some of the lots include residences already built on them.

Jennissen said that some of the lots do have residences on them.

Commissioner Landers wanted to know if the road requirements would be required when a Building Permit is applied for.

Jennissen stated no.

Commissioner Zvejnieks said there needs to be further discussion on required road improvements so there is consistency.

Ms. Janelle Finck, agent, appeared and addressed the concerns of the Planning Commission. She asked that the property landowners not be penalized since the lots were created 30 to 40 years ago, prior to the Zoning Ordinance being adopted, and now the landowners are making a small lot line change to correct a plat that was never corrected to adjust for an oversight.

Moved by Landers and seconded by Holloway to approve of Subdivision Regulations Variance 13-07 to waive topography at a five foot interval; road improvements to Custer Gulch Road; engineered road construction plans; improvements to the access easement; percolation tests and soil profile information due to the applicant is consolidating; and, topography as the applicant is decreasing density in the area; and, further recommended approval of Layout Plat 13-14 with the following seven (7) conditions:

- 1. That Custer Gulch Road be improved to Table one standards, which includes a 24-foot wide paved road with curb, gutter sidewalks and on-street parallel parking or obtain approval of a Subdivision Regulation Variance waiving this requirement;**
- 2. That the 33-foot wide access easement be improved to Table one standards, which includes a 24-foot wide paved road with curb, gutter sidewalks and on-street parallel parking or obtain approval of a Subdivision Regulation Variance waiving this requirement;**
- 3. That engineered road construction plans be submitted for both Custer Gulch Road and the 33-foot private access easement or obtain approval of a Subdivision Regulation Variance waiving this requirement;**
- 4. That at the time of submittal of the Minor Plat, the applicant submit percolation tests and soil profile information or obtain approval of a Subdivision Regulation Variance waiving this requirement;**
- 5. That the applicant submit topography at a five foot contour interval or obtain approval of a Subdivision Regulation Variance waiving this requirement;**
- 6. That the 33-foot private access easement be named with the filing of this plat; and,**
- 7. 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 that the submittal of percolation tests and soil profile information is being waived at this time. She further asked if this information is already on file for the three lots.

Jennissen responded no, but indicated that the lots will be larger, so the area will be increasing in size for a drainfield.

Commissioner Hall noted that there is no way of knowing if there are adequate soils and wanted to why this is being waived.

Jennissen explained that someone could apply for a Building Permit at this time and they will still have to provide percolation tests and soil profile information.

All voting aye, the Motion carried 6 to 0.

12. REZONE / RZ 13-13 AND COMPREHENSIVE PLAN AMENDMENT / CA 13-07: Mitch Morris. To rezone 151.36 acres and 30.49 acres from General Agriculture District and Light Industrial District to General Commercial District and to amend the Pennington County Comprehensive Plan to change the Future Land Use from Limited Agriculture District to General Commercial District in accordance with Section 508 of the Pennington County Zoning Ordinance.

Being 151.36 acres of land located in the E1/2 of Section 32, Township 1 North, Range 8 East of the Black Hills Meridian, Pennington County, South Dakota, said 151.36 acres of land being more particularly described by metes and bounds as follows, all measurements are to be considered as being followed by the words "more or less"; BEGINNING at the southwest corner of Lot 1 of the SW1/4 SE1/4 of Section 32, Township 1 North, Range 8 East of the Black Hills Meridian, on the south line of Section 32 at the intersection of the east right-of-way line of South Dakota Highway 79; Thence, North 06°32'53" West, along the west line of said Lot 1 of the SW1/4 SE1/4 of Section 32 and east right-of-way line of SD Highway 79, a distance of 4310.98 feet to a point on the easterly line of Lot A of the NW1/4 NE1/4 of Section 32 as shown on plat recorded in Highway Plat Book 9, Page 93, in the office of the Pennington County Register of Deeds, in a curve from which the center of curvature bears North 48°17'34" West a distance of 103.00 feet; Thence, southwesterly, following the easterly line of said Lot A of the NW1/4 NE1/4 of Section 32, along a curve to the right having a radius of 103.00 feet, a central angle of 35°53', for an arc distance of 64.51 feet to a point of tangency; Thence, South 77°35'27" West, continuing to follow the easterly line of said Lot A of the NW1/4 NE1/4 of Section 32, a distance of 4.12 feet to a point for corner on the east right-of-way line of SD Highway 79, in a curve from which the center of curvature bears South 73°13'38" West a distance of 3920 feet; Thence, northwesterly, along a curve to the left having a radius of 3920 feet, a central angle of 00°29'02", for an arc length of 33.11 feet to point for corner on the centerline of the alignment of said Lot A of the NW1/4 NE1/4 of Section 32; Thence, North 77°35'27" East, following the centerline of the alignment of said Lot A of the NW1/4 NE1/4 of Section 32, a distance of 6.78 feet to a point of curvature; Thence, northeasterly, continuing to follow the centerline of the alignment of said Lot A of the NW1/4 NE1/4 of Section 32, along a curve to the left having a radius of 70.00 feet, a central angle of 84°05'03", for an arc length of 102.73 feet to a point of tangency; Thence, North 06°29'36" West, continuing to follow the centerline of the alignment of said Lot A of the NW1/4 NE1/4 of Section 32, a distance of 606.16 feet to a point of curvature; Thence, northwesterly, continuing to follow the centerline of the alignment of said Lot A of the NW1/4 NE1/4 of Section 32, along a curve to the left having a radius of 1432.39 feet, a central angle of 05°45'52", for an arc length of 144.11 feet to point for corner on the west line of the E1/2 of Section 32; Thence, North 00°01'24" East, along the west line of the E1/2 of Section 32, a distance of 206.71 feet to the northwest corner of the E1/2 of Section 32; Thence, South 89°48'35" East, along the north line of the E1/2

of Section 32, a distance of 2656.84 feet to the northeast corner of Section 32; Thence, South 00°04'45" West, along the east line of Section 32, a distance of 500.00 feet to a point for corner; Thence, North 89°48'35" West, parallel to and 500 feet distant from the north line of the E1/2 of Section 32, a distance of 1514.54 feet to a point for corner; Thence, South 06°22'35" East, a distance of 4844.00 feet to a point for corner on the south line of the E1/2 of Section 32; Thence, North 89°36'35" West, along the south line of the E1/2 of Section 32, a distance of 1088.72 feet to the POINT OF BEGINNING and containing 151.36 acres, more or less, of land.

Being 30.49 acres of land located in the N1/2 NW1/4 of Section 33, Township 1 North, Range 8 East of the Black Hills Meridian, Pennington County, South Dakota, said 30.49 acres of land being more particularly described by metes and bounds as follows, all measurements are to be considered as being followed by the words "more or less"; BEGINNING at the northwest corner of Section 33, Township 1 North, Range 8 East of the Black Hills Meridian; Thence, South 89°51'35" East, along the north line of the NW1/4 of Section 33, a distance of 2656.84 feet to the northeast corner of the NW1/4 of Section 33; Thence, South 00°08'05" West, along the east line of the NW1/4 of Section 33, a distance of 500.00 feet to a point for corner; Thence, North 89°51'35" West, parallel to and 500 feet distant from the north line of the NW1/4 of Section 33, a distance of 2656.35 feet to a point for corner on the west line of the NW1/4 of Section 33; Thence, North 00°04'45" East, a distance of 500.00 feet to the POINT OF BEGINNING and containing 30.49 acres, more or less, of land.

(Continued from the July 22, 2013, Planning Commission meeting.)

Jennissen reviewed that these items were continued from the July 22, 2013, Planning Commission meeting to await the results of the Sheriff's Sale that was held on August 24, 2013. At the Sheriff's Sale, all the properties that were listed to be auctioned were sold, including the subject properties requested to be rezoned by the applicant. The properties are now in a one-year redemption period upon which, if the applicant pays the sale price plus 10 percent interest, he will maintain ownership of the subject properties. If the applicant does not redeem the properties, the deeds will transfer to the certificate holders.

Jennissen further added that any action on these properties should be denied without prejudice. If the applicant maintains ownership, the applicant will have the option of submitting his applications again without paying the application costs; however, he must still pay the advertising costs and notify all surrounding property owners via certified return receipt mail.

Staff recommended Rezone 13-13 and Comprehensive Plan Amendment 13-07 be denied without prejudice.

Mr. Mitch Morris, applicant, appeared and spoke in opposition to the recommendation from the Planning Department. He stated that he has all rights and possession of ownership of the properties for one year from the sale date. Mr. Morris added that he has

every intention of redeeming his properties prior to the one year due date and also has investors lined up to buy the land that was sold at the Sheriff's Sale.

Commissioner Zvejnieks asked if the buyers at the Sheriff's Sale are in agreement with the proposed rezoning.

Jennissen stated he has not had a phone call in reference to the two applications that were submitted by the applicant.

Commissioner Zvejnieks further indicated that there is a cloud on the title and, at this time, it is not appropriate to move forward with the requests of the applicant.

Mr. Patrick Grode, Deputy State's Attorney, agreed and said the buyers will have deeds to the properties, if Mr. Morris is not able to redeem them in one year.

Commissioner Holloway wanted to know what would happen if these applications are approved.

Jennissen said the new owners may not want the property rezoned to what the applicant is proposing.

Commissioner Zvejnieks spoke of the City of Rapid City's comments noting the change in zoning and that their Future Land Use Plan is not in agreement with the proposed applications.

Commissioner Zvejnieks asked if the buyers were notified that these properties are being possibly rezoned. He stated that he would like to see letters from those buyers indicating they are in agreement with the proposed rezoning of the properties.

Jennissen noted that he does not have a list of the buyers at this time and staff was unable to notify them of the applications submitted by Mr. Morris.

Discussion further followed regarding submittal of a Conditional Use Permit for the existing residence, the existing contractor's equipment yard, and continuing the applications in order for the applicant to submit additional applications.

Commissioner Zvejnieks further asked Mr. Morris to provide a letter from the certificate holders indicating they are in agreement with the proposed rezoning of the subject properties in question.

Moved by Landers and seconded by McCollam to continue Rezone 13-13 and Comprehensive Plan Amendment 13-07 to the September 9, 2013, Planning Commission meeting.

All voting aye, the Motion carried 6 to 0.

13. REZONE / RZ 13-14 AND COMPREHENSIVE PLAN AMENDMENT / CA 13-08: To rezone 200.73 acres from General Agriculture District to Suburban Residential District and to amend the Pennington County Comprehensive Plan to change the Future Land Use from Limited Agriculture District to Suburban Residential District in accordance with Section 508 of the Pennington County Zoning Ordinance.

Being 200.73 acres of land located in the NE1/4 of Section 32 and in the NW1/4 of Section 33, Township 1 North, Range 8 East of the Black Hills Meridian, Pennington County, South Dakota, said 200.73 acres of land being more particularly described by metes and bounds as follows, all measurements are to be considered as being followed by the words "more or less"; COMMENCING, for location purposes only, at the northeast corner of Section 32 also being the northwest corner of Section 33, Township 1 North, Range 8 East of the Black Hills Meridian; Thence, South 00°04'45" West, along the common line between Section 32 and Section 33, a distance of 500.00 feet to the POINT OF BEGINNING of the herein described tract; Thence, South 89°51'35" East, parallel to and 500 feet distant from the north line of the NW1/4 of Section 33, a distance of 2656.35 feet to a point for corner on the east line of the NW1/4 of Section 33; Thence, South 00°08'05" West, along the east line of the NW1/4 of Section 33, a distance of 2165.91 feet to a point for corner; Thence, North 89°41'05" West, along the south line of the NW1/4 of Section 33, a distance of 2654.26 feet to the southwest corner of the NW1/4 of Section 33 also being the southeast corner of the NE1/4 of Section 32; Thence, North 89°42'51" West, along the south line of the NW1/4 of Section 32, a distance of 1270.58 feet to a point for corner; Thence, North 06°22'35" West, a distance of 2169.92 feet to a point for corner, 500 feet south of the north line of the NE1/4 of Section 32; Thence, South 89°48'35" East, parallel to and 500 feet distant from the the north line of the NE1/4 of Section 32, a distance of 1514.54 feet to the POINT OF BEGINNING and containing 200.73 acres, more or less, of land.

(Continued from the July 22, 2013, Planning Commission meeting.)

Jennissen stated these items were continued from the July 22, 2013, Planning Commission meeting to await the results of the Sheriff's Sale that was held on August 24, 2013. At the Sheriff's Sale, all the properties that were listed to be auctioned were sold, including the subject properties requested to be rezoned by the applicant. The properties are now in a one-year redemption period upon which, if the applicant pays the sale price plus 10 percent interest, he will maintain ownership of the subject properties. If the applicant does not redeem the properties, the deeds will transfer to the certificate holders.

Jennissen further added that any action on these properties should be denied without prejudice. If the applicant maintains ownership, the applicant will have the option of submitting his applications again without paying the application costs; however, he must still pay the advertising costs and notify all surrounding property owners via certified return receipt mail.

Staff recommended Rezone 13-14 and Comprehensive Plan Amendment 13-08 be denied without prejudice.

Commissioner Hall expressed concern that the subject properties are within close proximity to the Black Gap Subdivision and noted the problems they have had with wastewater systems, structural problems, and the soils in the area.

Discussion followed.

Moved by Landers and seconded by Holloway to continue Rezone 13-14 and Comprehensive Plan Amendment 13-08 to the September 9, 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 July 22, 2013, Planning Commission meeting.

15. ITEMS FROM THE PUBLIC

There were no items from the public.

16. ITEMS FROM THE STAFF

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

17. ITEMS FROM THE MEMBERSHIP

Commissioner Zvejnieks discussed modifying the Guest House Ordinance to address the total square footage requirement to not include decks.

Commissioner Hall suggested the language be changed from covered deck to enclosed porch.

Discussion followed.

Moved by Hall to present this item to the Board of Commissioners for discussion, before staff proceeds with an Ordinance Amendment.

Commissioner Holloway suggested staff present the item to the Board of Commissioners with why this Ordinance Amendment is being recommended and what brought about the problems staff has encountered.

Commissioner Litzen stated this has only been an issue one time, since the adoption of the Guest House Ordinance in 2011, and suggested waiting to proceed with an Ordinance Amendment until there is more history of this being an issue.

Commissioner Hall withdrew her motion.

18. DISCUSSION ITEMS

There were no discussion items.

19. ADJOURNMENT

Moved by Landers and seconded by McCollam to adjourn.

All voting aye, the Motion carried 6 to 0.

The meeting adjourned at **10:16 a.m.**

Chairperson, Sig Zvejnieks