

MINUTES
PENNINGTON COUNTY PLANNING COMMISSION
October 14, 2013 @ 9:00 a.m.

County Commissioners' Meeting Room - Pennington County Courthouse

MEMBERS PRESENT: Sig Zvejnieks, Karen Hall, Barbara Landers, Lori Litzen, and Ron Buskerud.

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

ROLL CALL

1. APPROVAL OF THE SEPTEMBER 23, 2013, MINUTES
Moved by Landers and seconded by Hall to approve the September 23, 2013, Planning Commission minutes. Vote: unanimous (4 to 0).

Lori Litzen joined the meeting at this time.
2. APPROVAL OF THE AGENDA
Moved by Hall and seconded by Landers to approve the October 14, 2013, Planning Commission agenda, including the Consent Calendar. Vote: unanimous (5 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 92-19:** Harold Willis. To review a mobile home as a caretaker's residence in a Low Density Residential District in accordance with Section 204-D of the Pennington County Zoning Ordinance.

Lot 4, Vaughn Addition, Section 19, T2N, R8E, BHM, Pennington County, South Dakota.

To approve the extension of Conditional Use Permit / CU 92-19 with the following four (4) conditions:

1. **That Building Permits be obtained for any structure exceeding 144 square feet or located on a permanent foundation, which includes the necessary site plans to be reviewed and approved by the Planning Director;**
2. **That one of the mobile homes and its accessory structures be removed from the property when the applicant, Harold Willis, and/or his daughter, Marcy**

Wiechmann, no longer require additional care and/or move from the property;

3. That recreational vehicles are not to be used as living quarters when living quarters already exist on the property, per Pennington County Ordinance; and,
4. That this Conditional Use Permit be reviewed in three (3) years.

Vote: unanimous (5 to 0).

4. **CONDITIONAL USE PERMIT REVIEW / CU 01-01:** Charles and Ursula Brackett. To review a mobile home park in a Suburban Residential District in accordance with Section 208-C-2 of the Pennington County Zoning Ordinance.

The West 250' of the North 662.9' of the NW1/4SE1/4, Section 17, T2N, R7E, BHM, Pennington County, South Dakota.

To approve the extension of Conditional Use Permit / CU 01-01 with the following sixteen (16) conditions:

1. That the mobile home park is limited to a total of fourteen (14) mobile home lots and one (1) caretaker's residence;
2. That two (2) graveled parking spaces be provided for each mobile home lot, an additional parking space for guests, (one for every four mobile homes located in the mobile home park);
3. That a Floodplain Development Permit be obtained for any work, including the placement of mobile homes in the designated 100-year flood plain;
4. That at the time of Building Permit application, the applicant indicate alternative locations for a second drainfield and adequate space for accessory structures on the site plan for each lot;
5. That prior to any expansion to the existing mobile home park, an On-Site Wastewater Construction Permit be reviewed and approved by the South Dakota Department of Environment and Natural Resources and the Pennington County Environmental Planner;
6. That it be recommended that individual water meters be supplied for each new mobile home, or replacement of existing mobile homes;
7. That a Building Permit shall be obtained for the removal or placement of mobile homes on the property;

8. That a Building Permit be obtained for structures exceeding 144 square feet or located on a permanent foundation which will require a site plan to be reviewed and approved by the Planning Director;
9. That the interior roads be maintained with a twenty-five (25) foot-wide, four-inch graveled driving surface, the cul-de-sac be a minimum of 42 feet in radius, and roads be maintained in a dust free manner;
10. That all structures be located a minimum of ten (10) feet from interior access roads within the mobile home park and there be a minimum of twenty (20) feet between units;
11. That the mobile home park have a rear yard and side yard setback of not less than ten (10) feet;
12. That the mobile home park have a management office and such service buildings as necessary, located on the property;
13. That the applicant continues to maintain the second means of ingress and egress to the property onto the road north of the property;
14. That the mobile home park has one (1) common address that shall be posted on the management office and that each home in the park shall be individually labeled with its own unit number or letter. The unit numbers shall be posted on the homes so that they are clearly visible from the main access road;
15. At such time the mobile homes on Lots 1, 2, or 3 or the caretaker's residence is to be replaced, they must be relocated on the portion of the property zoned Suburban Residential District; and,
16. That this Conditional Use Permit be reviewed in one (1) year or upon a complaint basis to verify the applicant is complying with the conditions of approval.

Vote: unanimous (5 to 0).

5. **PLANNED UNIT DEVELOPMENT REVIEW / PU 06-07:** Black Hills Resorts, Inc. (Cimarron Park); Art Janklow – Agent. To review a Planned Unit Development to allow a mobile home park in accordance with Section 213 of the Pennington County Zoning Ordinance.

Tract C of Lot B of NE1/4 NW1/4 less Pengra Subdivision, Section 17, T2N, R7E, BHM, Pennington County, South Dakota.

(Continued from the August 26, 2013, Planning Commission meeting.)

To recommend to continue the review of Planned Unit Development / PU 06-07 to the December 9, 2013, Planning Commission meeting.

Vote: unanimous (5 to 0).

6. **REZONE / RZ 13-18 AND COMPREHENSIVE PLAN AMENDMENT / CA 13-12:** Larry Teuber / School House, LLC; Renner & Associates – Agent. To rezone 2.1 acres from Suburban Residential District to Limited Agriculture District and to amend the Pennington County Comprehensive Plan to change the Future Land Use Map from Suburban Residential District to Limited Agriculture District in accordance with Sections 206 and 508 of the Pennington County Zoning Ordinance.

Located on the following metes and bounds description: A portion of Lot 2R, Block 4, Spring Canyon Estates, Section 5, T1S, R7E, BHM, Pennington County, South Dakota, more fully described as follows: Commencing at a corner on the northerly boundary of Lot 2R, Block 4, Spring Canyon Estates, common to the northeasterly corner of Lot 1, Block 4, Spring Canyon Estates, common to a point on the southerly edge of Clarkson Road right-of-way, and the point of beginning; Thence, first course: S54°32'59"E, along the northerly boundary of said Lot 2R, common to the southerly edge of said right-of-way, a distance of 142.05 feet; Thence, second course: S03°31'20"E, a distance of 78.16 feet; Thence, third course: S40°44'38"W, a distance of 192.59 feet; Thence, fourth course: S63°27'08"W, a distance of 169.92 feet; Thence, fifth course: S26°00'49"W, a distance of 33.00 feet, a point on the southerly boundary of said Lot 2R; Thence, sixth course: N63°59'40"W, along the southerly boundary of said Lot 2R, a distance of 97.52 feet, to a corner on the westerly boundary of said Lot 2R; Thence, seventh course: N26°00'15"E, along the westerly boundary of said Lot 2R, a distance of 33.00 feet, to a corner on the westerly boundary of said Lot 2R; Thence, eighth course: N10°53'21"W, along the westerly edge of Lot 2R, a distance of 200.55 feet, to a corner on the westerly boundary of said Lot 2R, common to the southeasterly corner of said Lot 1; Thence, ninth course: N76°55'43"E, along the westerly edge of said Lot 2R, common to the easterly boundary of said Lot 1, a distance of 231.09 feet, to a corner on the westerly boundary of said Lot 2R, common to a corner on the easterly boundary of said Lot 1; Thence, tenth course: N32°32'36"E, along the westerly edge of said Lot 2R, common to the easterly edge of said Lot 1, a distance of 107.11 feet, to the said point of beginning. Said Parcel contains 2.100 acres more or less.

To recommend approval of Rezone / RZ 13-18 and Comprehensive Plan Amendment / CA 13-12.

Vote: unanimous (5 to 0).

7. **REZONE / RZ 13-15 AND COMPREHENSIVE PLAN AMENDMENT / CA 13-09:** Neil Tschetter. To rezone .26 acre from General Agriculture District to Suburban Residential District and to amend the Pennington County Comprehensive Plan to change the Future Land Use from Planned Unit Development Sensitive to Suburban Residential District in accordance with Section 508 of the Pennington County Zoning Ordinance.

Lot 10 (of Gov't Lot 9), Black Forest Village, Section 22, T1N, R5E, BHM, Pennington County, South Dakota.

(Continued from the September 9, 2013, Planning Commission meeting.)

To recommend to continue Rezone / RZ 13-15 and Comprehensive Plan Amendment / CA 13-09 to the November 12, 2013, Planning Commission meeting.

Vote: unanimous (5 to 0).

END OF CONSENT CALENDAR

8. 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 September 9, 2013, Planning Commission meeting.)

Jennissen introduced the item and explained that this is the third time this Rezone and Comprehensive Plan Amendment request has been heard in front of the Planning Commission. A Conditional Use Permit application to allow the manufactured home to remain on the subject property has not yet been submitted by the applicant, Mitch Morris. Jennissen recommended these items be continued again to the November 12, 2013, Planning Commission meeting so that a Conditional Use Permit application can be submitted. In addition, Jennissen requested the motion to continue these items also include that the applicant pays a \$100 continuation fee at the time he applies for the Conditional Use Permit.

Commissioner Zvejnieks questioned if the applicant is aware of the continuation fee.

Jennissen responded that the applicant receives copies of the Staff Report, which includes the recommendation by staff to charge the \$100 continuation fee.

Commissioner Litzen asked if the applicant intends to submit the Conditional Use Permit.

Jennissen said the applicant has indicated he intends to.

Commissioner Landers questioned the \$100 continuance fee and if this is always charged.

Jennissen explained that the fee is not charged for the first continuance, but now that the applicant is requesting to continue these items again, the \$100 fee is charged.

Moved by Hall and seconded by Buskerud to recommend to continue Rezone / RZ 13-13 and Comprehensive Plan Amendment / CA 13-07 to the November 12, 2013, Planning Commission meeting and to require Mitch Morris to pay a \$100 continuation fee at the time he applies for a Conditional Use Permit for the manufactured home to be located on the property prior to a commercial use or structure.

All voting aye, the Motion carried 5 to 0.

9. DISCUSSION OF COMMERCIAL BUILDING PERMIT FEE.

Jennissen reviewed the memo provided to the Planning Commission explaining why this has been brought to their attention. The Board of Commissioners requested the Planning Commission review the Commercial Building Permit fees as a result of the \$17,000 Building Permit fee that was charged to Mr. Donald Perdue for the construction of the replica of Independence Hall. In addition, the Board of Commissioners would also like the amount of the Building Permit fee that is retained by the Planning Department (\$60 per permit, with the remainder going to the County Drainage Fund) to be discussed. Some possibilities would be to cap Commercial Building Permit fees or allow the Board of Commissioners to waive all fees.

Commissioner Zvejnieks questioned if there are any pending items relating to this discussion, or if it would be more appropriate to postpone this discussion so that Commissioners Coleman and McCollam could be involved in the discussion.

Jennissen responded no and stated there are usually only one or two large Commercial Building Permits per year that this would affect.

Commissioner Buskerud indicated there is not a hurry on the part of the Board of Commissioners and suggested all Planning Commissioners be here for the discussion.

Commissioner Zvejnieks suggested postponing this discussion until the full Planning Commission is present.

Commissioner Buskerud stated his preference for capping the Commercial Building Permit fees, but he would not be in favor of granting the Board of Commissioners the authority to waive all fees.

Commissioner Landers stated waiving all fees gives the impression of favoritism and she would also not be in favor of this.

Commissioner Zvejnieks suggested another option might be to tier the fees.

Jennissen stated all of these options could be discussed with the full Planning Commission.

Commissioner Landers asked how much of the Building Permit fees the Planning Department would like to keep.

Jennissen responded that the revenue for all Building Permit fees is approximately \$100,000 per year and it all eventually ends up in the general fund, so it isn't of great importance how much the Planning Department retains.

Commissioner Zvejnieks stated it may be appropriate to have a little more of the fees kept by the Planning Department.

Commissioner Buskerud suggested a tiered fee structure since there are currently no building inspections conducted.

Jennissen stated that could change when a building inspection program is adopted, but the permit fees could be revised at that time.

Commissioner Litzen questioned what the drainage fees are used for and if it covers the salary of the County Drainage Engineer.

Jennissen responded yes.

Commissioner Hall confirmed the Drainage Fees all go to the Highway Department and can also be used for drainage projects.

Moved by Zvejnieks and seconded by Litzen to continue the discussion of this item to the next Planning Commission meeting on October 28, 2013, in order for all Planning Commission members to be present.

All voting aye, the Motion carried 5 to 0.

10. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commission's recommendations from the September 23, 2013, Planning Commission meeting. The Planning Commission's approval of the Conditional Use Permit for Ken and Cory Tomovick (CU #13-19) has been appealed to the Board of Commissioners and will be heard at their November 19, 2013, meeting.

11. ITEMS FROM THE PUBLIC

There were no items from the public.

12. ITEMS FROM THE STAFF

- A. Building Permit Report. Jennissen reviewed the Building Permit Report for 2013.
- B. 2013 SD Planner's Conference. Jennissen discussed the upcoming SD Planner's Conference being held in Yankton.

13. ITEMS FROM THE MEMBERSHIP

There were no items from the membership.

14. DISCUSSION ITEMS

There were no discussion items.

15. ADJOURNMENT

Moved by Hall and seconded by Landers to adjourn.

All voting aye, the Motion carried to 5 to 0.

The meeting adjourned at **9:25 a.m.**

Chairperson, Sig Zvejnieks