

MINUTES
PENNINGTON COUNTY PLANNING COMMISSION
October 28, 2013 @ 9:00 a.m.

County Commissioners' Meeting Room - Pennington County Courthouse

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

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

ROLL CALL

1. APPROVAL OF THE OCTOBER 14, 2013, MINUTES
Moved by Litzen and seconded by Hall to approve the October 14, 2013, Planning Commission minutes. Vote: unanimous (7 to 0).

2. APPROVAL OF THE AGENDA
Moved by Hall and seconded by McCollam to approve the October 28, 2013, Planning Commission Agenda. Vote: unanimous (7 to 0).

CONSENT CALENDAR

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

3. **CONDITIONAL USE PERMIT REVIEW / CU 01-18:** Randy and June Guliuzza. To review a Bed and Breakfast as a home occupation in a Low Density Residential District in accordance with Section 207-C-1 of the Pennington County Zoning Ordinance.

Tract 2 of Shelter in the Hills Subdivision, Section 24, T1S, R6E, BHM, Pennington County, South Dakota.

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

To approve of the extension of Conditional Use Permit / CU 01-18 with the following eleven (11) conditions:

1. **That a maximum of six people, including both guests and residents, be allowed to stay at the bed and breakfast establishment;**

2. That the business be conducted by members of the family residing on the premises and no more than one additional person;
3. That AC and battery operated smoke detectors be installed in all sleeping rooms and common hallways and tested semi-annually as requested by the Pennington County Fire Coordinator;
4. That a 2-ABC dry chemical fire extinguisher be accessible to all guests at all times as requested by the Pennington County Fire Coordinator;
5. That a minimum of six (6) off-street parking spaces be provided and that each parking space shall not be less than one hundred sixty two square feet, nor less than nine feet by eighteen feet, surfaced with gravel, concrete or asphalt and maintained in such a manner that no dust will result from continuous use;
6. That prior to operation, the bed and breakfast be registered with the South Dakota Department of Health;
7. That the applicant obtains a Sales Tax License as required by the South Dakota Department of Revenue;
8. That a business sign, which directs attention to the home occupation, shall be allowed with an approved Sign Permit. Such sign shall not exceed four (4) square feet in area and shall be limited to one such sign per approved home occupation use. Such sign shall be either a wall sign or a ground sign and shall not be located closer than seventeen feet to the nearest street right-of-way line;
9. That an address be posted on the residence in accordance with Ordinance #20;
10. That prior to operation of the Bed and Breakfast, this Conditional Use Permit be reviewed and the applicant's notify the surrounding property owners in accordance with Section 510 of the Pennington County Zoning Ordinance; and,
11. That this Conditional Use Permit be reviewed at the June 9, 2014, Planning Commission meeting.

Vote: unanimous (7 to 0).

4. **CONDITIONAL USE PERMIT REVIEW / CU 07-41:** Gloria Roseland. To review a single-wide manufactured home as a single-family residence in a Suburban Residential District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance.

Lot 3A, Block 11, Ashland Subdivision No. 3, Section 15, T2N, R8E, BHM, Pennington County, South Dakota.

To continue the review of Conditional Use Permit / CU 07-41 to the November 12, 2013, Planning Commission meeting.

Vote: unanimous (7 to 0).

5. **CONDITIONAL USE PERMIT REVIEW / CU 08-06:** Robert and Melody Riggins. To review a single-wide mobile 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.

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

To continue the review of Conditional Use Permit / CU 08-06 to the December 9, 2013, Planning Commission meeting.

Vote: unanimous (7 to 0).

6. **CONDITIONAL USE PERMIT REVIEW / CU 12-28:** Albert and Rita Chapman. To review a Vacation Home Rental in a Suburban Residential District in accordance with Sections 208, 319, and 510 of the Pennington County Zoning Ordinance.

Lots 9-12, Block 3, Silver City, Section 31, T2N, R5E, BHM, Pennington County, South Dakota.

To approve of the extension of Conditional Use Permit / CU 12-28 with the following six (6) conditions:

1. **That the Vacation Home Rental be limited to two (2) bedrooms and that the maximum occupancy of the Vacation Home Rental be determined by the SD DENR;**
2. **That the applicant complies with the requirements of Section 319 of the Zoning Ordinance at all times, including the Performance Standards and the requirement to post an Interior Informational Sign;**
3. **That a minimum of two (2) off-street parking spaces be provided and each parking space shall not be less than one hundred sixty two square feet, nor less than nine feet by eighteen feet, surfaced with gravel, concrete or asphalt and maintained in a dust free manner. The parking area shall be designated on-site;**

4. That the address be properly posted on both the residence and at the approach so it be visible in both directions in accordance with Pennington County's Ordinance #20;
5. That all applicable Federal, State, and Local regulations be adhered to at all times, including South Dakota Administrative Rule 44:02:08, which regulates Vacation Home Rentals; and,
6. That this Conditional Use Permit be reviewed in three (3) years or on a complaint basis to verify that all conditions of approval are being met.

Vote: unanimous (7 to 0).

7. **CONDITIONAL USE PERMIT REVIEW / CU 12-29:** Albert and Rita Chapman. To review a Vacation Home Rental in a Suburban Residential District in accordance with Sections 208, 319, and 510 of the Pennington County Zoning Ordinance.

Lots 5-10, Block 2, Silver City, Section 31, T2N, R5E, BHM, Pennington County, South Dakota.

To approve of the extension of Conditional Use Permit / CU 12-29 with the following six (6) conditions:

1. That the Vacation Home Rental be limited to one (1) bedroom and that the maximum occupancy of the Vacation Home Rental be determined by the SD DENR;
2. That the applicant complies with the requirements of Section 319 of the Zoning Ordinance at all times, including the Performance Standards and the requirement to post an Interior Informational Sign;
3. That a minimum of one (1) off-street parking space be provided and each parking space shall not be less than one hundred sixty two square feet, nor less than nine feet by eighteen feet, surfaced with gravel, concrete or asphalt and maintained in a dust free manner. The parking area shall be designated on-site;
4. That the address be properly posted on both the residence and at the approach so it be visible in both directions in accordance with Pennington County's Ordinance #20;
5. That all applicable Federal, State, and Local regulations be adhered to at all times, including South Dakota Administrative Rule 44:02:08, which regulates Vacation Home Rentals; and,

6. That this Conditional Use Permit be reviewed in one (1) year or on a complaint basis to verify that all conditions of approval are being met.

Vote: unanimous (7 to 0).

8. **PLANNED UNIT DEVELOPMENT REVIEW / PU 08-01**: Clair Voshall. To review a Planned Unit Development to allow three existing mobile homes, a home occupation, and outbuildings in accordance with Section 213 of the Pennington County Zoning Ordinance.

Lot 1, Voshall Addition, Section 10, T2S, R6E, BHM, Pennington County, South Dakota.

To recommend approval of the extension of Planned Unit Development / PU 08-01 with the following eight (8) conditions:

1. That this Planned Unit Development allows for a 3.02 acre parcel with no more than three mobile homes and existing outbuildings;
2. That, if at any time, one of the mobile homes becomes inhabitable, the property owner must remove it immediately;
3. That approval of this Planned Unit Development does not hold Pennington County liable for any damages and/or losses during the event of a flood;
4. That this Planned Unit Development be valid only for the current existing uses; any expansion or change that requires a Building Permit, the property must be rezoned;
5. That each mobile home be addressed and the addresses must be posted per Ordinance 20 Standards at both the road and driveway;
6. That a Floodplain Development Permit be obtained prior to the placement of any structure within the boundaries of the 100-year floodplain;
7. That a minimum of four (4) off-street parking spaces be provided and that each parking space shall not be less than one hundred sixty two square feet, nor nine feet by eighteen feet, surfaced with gravel, concrete or asphalt and maintained in such a manner that no dust will result from continuous use; and,
8. That the Planned Unit Development be reviewed in four (4) years or on a complaint basis.

Vote: unanimous (7 to 0).

9. **VACATION OF EASEMENT / VE 13-02:** Aaron Olson. To vacate a portion of the access and utility easements located along the interior of Lots 7 and 8 of Tract A of Sunnyside Acres Subdivision in accordance with the Pennington County Zoning Ordinance.

Lots 7 and 8 of Tract A, Sunnyside Acres Subdivision, Section 25, T2N, R4E, and Section 30, T2N, R5E, BHM, Pennington County, South Dakota.

To recommend approval of the Vacation of Easement / VE 13-02 with one (1) condition.

1. **That the Vacation of Access and Utility Easements exhibits and resolution be filed and recorded with the Register of Deeds.**

Vote: unanimous (7 to 0).

10. **CONDITIONAL USE PERMIT / CU 13-22:** Dudley and Ila LaPointe. To allow a single-wide mobile home to be used as a single-family residence in a Suburban Residential District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance.

Lot 25, Block 7, Green Valley Estates, Section 23, T1N, R8E, BHM, Pennington County, South Dakota.

To approve of Conditional Use Permit / CU 13-22 with the following nine (9) conditions:

1. **That a Building Permit be obtained for the single-wide mobile home only after the applicant is issued an approved On-Site Wastewater Treatment Construction Permit through the City of Rapid City;**
2. **That the minimum setback requirements of a Suburban Residential District be continually maintained on the property;**
3. **That no parking be allowed in the area containing the on-site wastewater treatment system (OSWTS) or any part of the driveway be located over the OSWTS unless approved by Rapid City;**
4. **That two (2) off-street parking spaces be provided in accordance with Pennington County Zoning Ordinance Section #310;**
5. **That the property be kept free of debris and junk vehicles and the truck, located on-site, be licensed or removed prior to issuance of a Building Permit in accordance with Pennington County's Ordinance #106;**

6. That if any land disturbance occurs, erosion, stabilization and sediment control measures (i.e. silt fence, wattles, erosion mats) be implemented;
7. That the lot address (4667 Anderson Road) be posted so it is clearly visible from both directions of travel along Anderson Road, at all times, in accordance with Pennington County's Ordinance #20;
8. That the single-wide mobile home have a continually maintained peaked non-reflective type roof, wood or simulated wood-type siding, and skirting; and,
9. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as directed by the Pennington County Planning Commission to verify that all Conditions of Approval are being met.

Vote: unanimous (7 to 0).

END OF CONSENT CALENDAR

11. REZONE / RZ 13-19: James and Charlette Steele; Fisk Land Surveying – Agent. To rezone 25 acres from General Agriculture District to Limited Agriculture District in accordance with Sections 206 and 508 of the Pennington County Zoning Ordinance.

NW1/4SE1/4SE1/4; NE1/4SE1/4SE1/4; and S1/2SE1/4NE1/4SE1/4, in Section 25, T2N, R6E, BHM, Pennington County, South Dakota.

Conover reviewed the Staff Report indicating the applicant has applied to rezone 25 acres from General Agriculture District to Limited Agriculture District. Conover explained that the applicant is working with the City of Rapid City to create two lots out of an existing 70 acre parcel: 10 acres (Lot 3 of Steele Subdivision) and 15 acres (Lot 4 of Steele Subdivision), while the remaining 45 acres are to be left as an unplatted balance. The entire 70 acre parcel is currently vacant of any structural development.

Conover stated that access to proposed Lot 4 is available from Sun Ridge Road and access for proposed Lot 3 can be taken off of Pushing Place. The surrounding areas are zoned a mixture of General Agriculture District, Limited Agriculture District and Low Density Residential with lot sizes ranging from approximately four (4) to 120 acres. The smaller lots are primarily used for single-family residential, while the larger lots are used for agricultural purposes. It appears the applicants' request to rezone the subject property to Limited Agriculture District is consistent with the lot sizes and zoning of the properties in the surrounding area.

Conover addressed the Pennington County Fire Coordinator's comments noting that this property is in an area of extreme wildland fire danger and fire mitigation measures have been discussed with the applicant and his agent at length. There will be a Fire Mitigation Plan in place prior to filing the plat with the Register of Deeds.

Conover further spoke of the Pennington County Water Protection Coordinator's and Environmental Planner's comments regarding the soils on the property. They both indicated that the soils on the subject property are not conducive for a conventional on-site wastewater treatment system, and, in June of 2013, a soil profile hole revealed soils inadequate for a conventional system. Therefore, the applicant will need to obtain approval of an alternative wastewater system, such as an above-ground mound system, prior to obtaining a Building Permit.

Conover also discussed Rapid City Community Planning's comments indicating that the City's Future Land Use Plan identifies the appropriate use of the property as residential. He explained that the subject property is located within the city's three-mile platting jurisdiction, and, in July of 2013, the applicant submitted a Preliminary Subdivision Plan application to create a 10 acre lot which included a portion of the property within this proposed rezoning request. The applicant also submitted an Exception Request to allow 46 dwelling units in lieu of the maximum 40 dwelling units with one point of access as per the City's Infrastructure Design Criteria Manual. The city denied the Exception Request and the applicant withdrew the Preliminary Subdivision Plan Application.

Staff recommended approval of Rezone 13-19 to rezone 25 acres from General Agriculture District to Limited Agriculture District.

Commissioner Zvejnieks questioned how many lots currently take access from the single access of Sun Ridge Road.

Conover stated there are 45 lots.

Jennissen also commented that he did speak with the City of Rapid City and their regulations are the same as Pennington County's with regards to only 40 lots allowed on a dead end road system.

Commissioner Buskerud spoke of the Environmental Planner's comments and expressed concern that those comments be addressed.

Jennissen responded and noted that conditions cannot be placed upon a Rezone, but he would address this with the applicant and agent. He also informed the Planning Commission that the applicant would need to show that there are adequate soils before a Building Permit can be obtained.

Commissioner Hall also expressed concern with the Environmental Planner's comments and stated the subject property consists mostly of rock.

Ms. Janelle Finck, agent, appeared and discussed the Planning Commissioner's concerns and stated the applicant is aware that a traditional conventional septic system will not work for the property and an alternative system will need to be installed. She also spoke of the denial from the City of Rapid City on the number of lots allowed on a dead end road system and stated they were advised to further visit with the city fire officials, as well as Pennington County's Fire Coordinator to develop a plan to help mitigate some of the fire danger on the property. Ms. Finck stated that the City of Rapid City has also approved more than 40 access points off of a dead end road system on other applications through them. Ms. Finck further noted the applicant is doing what has been asked of him and asked for approval of this Rezone request.

Commissioner Zvejnieks asked if there is a flat area on the property in order to install a mound system.

Ms. Finck responded yes and stated that on proposed Lot 3, there is a small area in the front of the property that the applicant would be able to utilize.

Discussion followed.

Moved by Landers and seconded by Coleman to approve of Rezone / RZ 13-19 to rezone 25 acres from General Agriculture District to Limited Agriculture District.

All voting aye, the Motion carried 7 to 0.

12. DISCUSSION OF COMMERCIAL BUILDING PERMIT FEE.

(Continued from the October 14, 2013, Planning Commission meeting.)

Jennissen explained that this item had been continued from the October 14, 2013, Planning Commission meeting to further discuss the Building Permit Fees for commercial structures.

Discussion followed.

Moved by McCollam and seconded by Landers to have the Planning Director research Commercial Building Permit Fees and provide a draft proposed tiered system, as well as a draft tiered system with a cap for Commercial Building Permit Fees.

All voting aye, the Motion carried 7 to 0.

13. COUNTY BOARD REPORT

The Board of Commissioners will not hear the Planning Commission's recommendations from the October 14, 2013, Planning Commission meeting until their November 5th Board meeting.

Rezone 13-14 and Comprehensive Plan Amendment 13-08 (Mitch Morris) were recommended by the Planning Commission to be denied without prejudice at the September 9, 2013, Planning Commission meeting. This item was reconsidered at the October 15, 2013, Board of Commissioners' meeting, and was subsequently denied by the Board of Commissioners.

Also, Appeal of Conditional Use Permit 13-19 (Ken and Cory Tomovick) will be heard at the November 19th Board of Commissioners' meeting.

14. ITEMS FROM THE PUBLIC

There were no items from the public.

15. ITEMS FROM THE STAFF

- A. Comprehensive Plan Amendment and Vacation Home Rental Review Fees. Zeller informed the Planning Commission that the Comprehensive Plan Amendment Application fee needs to be incorporated into Section 511 – Fees, as there is currently not a fee for this listed in this Section.

Also, reviews for Vacation Home Rental Conditional Use Permits require a \$100 fee and staff has not been collecting this, even though it was adopted in the Zoning Ordinance. Staff is asking whether or not this is appropriate to collect the fee or to remove the fee from the review process.

Commissioner Coleman discussed Conditional Use Permits being continued when reviewed and feels the review fee for Vacation Home Rentals should also be incorporated into the review of all Conditional Use Permits, based upon staff's time and continuances being granted to applicants to address meeting their Conditions of Approval.

Discussion followed.

Moved by Buskerud and seconded by Coleman to draft an Ordinance Amendment to include a review fee for all Conditional Use Permits and to also include in the Ordinance Amendment to add a fee for a Comprehensive Plan Amendment to Section 511.

All voting aye, the Motion carried 7 to 0.

- B. Comprehensive Plan. Jennissen spoke of the Comprehensive Plan and further discussed updating the document in-house by staff or hiring a consultant to review and update it.

Commissioner Litzen asked Jennissen if the Planning Department has the staff and time to review the document in-house and to get it done correctly.

Commissioner Hall wanted to know what the cost would be to hire a consultant.

Commissioner Zvejnieks also spoke of the list of items the Planning Commissioners would like to see addressed and wanted to know if those projects are being worked on.

Jennissen commented that staff would need to research the cost of hiring a consultant for the Comprehensive Plan and he also added that staff would start addressing the items on the list the Planning Commission wants to accomplish.

Commissioner Coleman also spoke of deferring to the City of Rapid City for the Comprehensive Plan, since they have a three-mile platting jurisdiction and they are also working on their Plan so this could help the County save money.

Discussion followed.

Jennissen stated he would do more research and find out what the City of Rapid City is paying for their consultant, the timeframe within which to accomplish getting the Comprehensive Plan updated, and also see what other municipalities are doing to update their Comprehensive Plans and bring this information back for further discussion.

16. ITEMS FROM THE MEMBERSHIP

Commissioner Zvejnieks spoke of the SD Planner's Conference recently held in Yankton.

17. DISCUSSION ITEMS

There were no discussion items.

18. ADJOURNMENT

Moved by Hall and seconded by Coleman to adjourn.

All voting aye, the Motion carried 7 to 0.

The meeting adjourned at **10:20 a.m.**

Chairperson, Sig Zvejnieks